

# FEDERAL REGISTER

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# Rules and Regulations

## Title 6—AGRICULTURAL CREDIT

### Chapter IV—Commodity Credit Corporation, Department of Agriculture

#### SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[1961 C.C.C. Grain Price Support Bulletin 1, [Supp. 1, Amdt. 1, Dry Edible Beans]

#### PART 421—GRAINS AND RELATED COMMODITIES

##### Subpart—1961-Crop Dry Edible Bean Loan and Purchase Agreement Program

###### MISCELLANEOUS AMENDMENTS

The regulations issued by the Commodity Credit Corporation published in 26 F.R. 5733, and containing the specific requirements of the 1961-crop dry edible bean price support program are hereby amended as follows:

1. Section 421.278(f) (1) is amended to make Pinto beans containing not more than 15 percent moisture eligible for farm-storage loan when the total percentage of other defects is in excess of 8 percent, but not more than 15 percent. The amended subparagraph will read as follows:

###### § 421.278 Eligible beans.

(f) (1) Beans placed under farm-storage loan must meet the requirements set forth in paragraph (e) of this section for warehouse-storage loans and purchase agreements, or must be beans which have not been commercially cleaned; which contain not in excess of 18 percent moisture (except in the case of Pinto beans which may not contain in excess of 15 percent moisture when the percent of other defects exceeds 8 percent); which after deduction of foreign material, contain not more than 8 percent of other defects, as these terms are defined in the United States Standards for Beans (except in the case of Pinto beans which may contain not in excess of 15 percent of other defects); which are not musty, moldy, sour, heating, hot, weevily, materially weathered, or otherwise of distinctly low quality; and which do not have any commercially objectionable odor. (Such beans are hereinafter referred to as "thresher run" beans.)

2. Section 421.285 (b) footnote one is amended to provide additional deductions from the loan rate for Pinto beans when the percent of other defects exceeds 8 percent. The footnote is amended to read as follows:

###### § 421.285 Support rates.

(b) . . . . .

<sup>1</sup>Premium for U.S. CHP and U.S. Extra No. 1, 10 cents except that premium

for U.S. CHP on pea beans is 25 cents. Discount for U.S. No. 2, 25 cents. Loan rate for thresher-run beans where the percent of defects, not including foreign material, is not more than 8 percent, shall be the loan rate for U.S. No. 1 less \$2 except in Michigan and New York, where the loan rate shall be the loan rate for U.S. No. 1 less \$3.00. Such rate for Pinto beans shall be further reduced 50 cents per cwt. where the percent of defects, other than foreign material, ranges 8.1 to 12 and \$1.00 per cwt. where it ranges 12.1 to 15. Quantity on thresher-run beans is the net weight of sound whole beans.

(Sec. 4, 62 Stat. 1070 as amended, 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053; 15 U.S.C. 714c; 7 U.S.C. 1447, 1421)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 17, 1961.

E. A. JAENKE,  
*Acting Executive Vice President,  
Commodity Credit Corporation.*

[F.R. Doc. 61-11197; Filed, Nov. 24, 1961; 8:53 a.m.]

## Title 7—AGRICULTURE

### Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

#### PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

##### Subpart—United States Standards for Grades of Filberts in the Shell<sup>1</sup>

On August 19, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 7778) regarding a proposed revision of United States Standards for Filberts in the Shell.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Grades of Filberts in the Shell are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

The proposed United States Standards for Grades of Filberts in the Shell which were contained in the aforesaid notice are hereby adopted in the form in which such standards appeared in said notice and are hereby incorporated herein by this reference except for the following addition:

<sup>1</sup>Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

Insert the word "Grade" as a center heading immediately above § 51.1995 U.S. No. 1.

It has been determined that good cause exists for not postponing the effective date of these standards beyond the date of publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011), in that: (1) The 1961 packing season for filberts is at hand and it is in the interest of the public as well as the filbert industry that the revised standards become effective as soon as possible; and, (2) no special preparation on the part of the industry will be necessitated by the change in size requirements since the new size is already in use.

Accordingly, the United States Standards for Grades of Filberts in the Shell set forth herein shall become effective upon publication in the FEDERAL REGISTER, and shall thereupon supersede the United States Standards for Filberts in the Shell which have been in effect since September 10, 1948.

Dated: November 20, 1961.

G. R. GRANGE,  
*Deputy Administrator,  
Marketing Services.*

###### GRADE

Sec.  
51.1995 U.S. No. 1.

###### UNCLASSIFIED

51.1996 Unclassified.

###### DEFINITIONS

51.1997 Similar type.  
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51.2000 Clean and bright.  
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51.2003 Reasonably well developed.  
51.2004 Badly misshapen.  
51.2005 Rancidity.  
51.2006 Moldy.  
51.2007 Insect injury.

###### APPLICATION OF STANDARDS

51.2008 Application of standards.

AUTHORITY: §§ 51.1995 to 51.2008 issued under secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627.

###### GRADE

§ 51.1995 U.S. No. 1.

"U.S. No. 1" consists of filberts in the shell which are of similar type and dry. The shells shall be well formed, clean and bright, free from blanks, broken or split shells, and free from damage caused by stains, adhering husk or other means. The kernels shall be reasonably well developed, not badly misshapen, free from rancidity, decay, mold, insect injury and free from damage caused by shriveling, discoloration or other means.

(a) The filberts shall meet one of the following size classifications as specified for round type and for long type varieties:

## SIZE REQUIREMENTS

Size classifications	Maximum size	Minimum size
	Will pass through a round opening of the following size.	Will not pass through a round opening of the following size.
Round type varieties:		
Jumbo.....	No maximum.....	$\frac{5}{16}$ inch.
Large.....	$\frac{5}{16}$ inch.....	$\frac{1}{4}$ inch.
Medium.....	$\frac{1}{4}$ inch.....	$\frac{3}{8}$ inch.
Small.....	$\frac{3}{8}$ inch.....	No minimum.
Long type varieties:		
Jumbo.....	No maximum.....	$\frac{1}{4}$ inch.
Large.....	$\frac{5}{16}$ inch.....	$\frac{1}{4}$ inch.
Medium.....	$\frac{1}{4}$ inch.....	$\frac{3}{8}$ inch.
Small.....	$\frac{3}{8}$ inch.....	No minimum.

(b) *Tolerances.* In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are permitted as specified:

(1) *For mixed types.* 10 percent for filberts which are of a different type.

(2) *For defects.* 10 percent for filberts which are below the requirements of this grade: *Provided*, That not more than one-half of this amount or 5 percent shall consist of blanks, and not more than 5 percent shall consist of filberts with rancid, decayed, moldy or insect injured kernels, including not more than 3 percent for insect injury.

(3) *For off-size.* 12 percent for filberts which fail to meet the requirements for the size specified, but not more than five-sixths of this amount, or 10 percent shall consist of undersize filberts.

## UNCLASSIFIED

## § 51.1996 Unclassified.

"Unclassified" consists of filberts which have not been classified in accordance with the foregoing grade. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

## DEFINITIONS

## § 51.1997 Similar type.

"Similar type" means that the filberts in each container are of the same general type and appearance. For example, nuts of the round type shall not be mixed with those of the long type in the same container.

## § 51.1998 Dry.

"Dry" means that the shell is free from surface moisture, and that the shells and kernels combined do not contain more than 10 percent moisture.

## § 51.1999 Well formed.

"Well formed" means that the filbert shell is not materially misshapen.

## § 51.2000 Clean and bright.

"Clean and bright" means that the individual filbert and the lot as a whole are practically free from adhering dirt and other foreign material, and that the shells have characteristic color.

## § 51.2001 Blank.

"Blank" means a filbert containing no kernel or a kernel filling less than one-fourth the capacity of the shell.

## § 51.2002 Damage.

"Damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the appearance, or the edible or shipping quality of the filberts. The following specific defects shall be considered as damage:

(a) Stains which are dark and materially affect the appearance of the individual shell.

(b) Adhering husk when covering more than 5 percent of the surface of the shell in the aggregate.

(c) Shriveling when the kernel is materially shrunken, wrinkled, leathery and tough.

(d) Discoloration when the appearance of the kernel is materially affected by black color.

## § 51.2003 Reasonably well developed.

"Reasonably well developed" means that the kernel fills one-half or more of the capacity of the shell.

## § 51.2004 Badly misshapen.

"Badly misshapen" means that the kernel is so malformed that the appearance is materially affected.

## § 51.2005 Rancidity.

"Rancidity" means that the kernel is noticeably rancid to the taste. An oily appearance of the flesh does not necessarily indicate a rancid condition.

## § 51.2006 Moldy.

"Moldy" means that there is a visible growth of mold either on the outside or the inside of the kernel.

## § 51.2007 Insect injury.

"Insect injury" means that the insect, frass or web is present inside the nut or the kernel shows definite evidence of insect feeding.

## APPLICATION OF STANDARDS

## § 51.2008 Application of standards.

(a) The grade of a lot of filberts shall be determined on the basis of a composite sample drawn from containers in various locations in the lot. However, any container or group of containers in which the filberts are obviously of a quality, type or size materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

(b) In grading the sample, each filbert shall be examined for defects of the shell before being cracked for kernel examination. The nut shall be classed as only one defective nut even though it may be defective externally and internally.

[F.R. Doc. 61-11173; Filed, Nov. 24, 1961; 8:48 a.m.]

## Chapter IX—Agricultural Marketing Service and Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order 6]

### PART 906—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

## Order Amending Order

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AUTHORITY: §§ 906.0 to 906.101 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

## § 906.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oklahoma Metropolitan marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe with respect to all milk pursuant to § 906.88.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than December 1, 1961. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued September 22, 1961 and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued October 27, 1961. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1961, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Oklahoma Metropolitan marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

## DEFINITIONS

## § 906.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

## § 906.2 Secretary.

"Secretary" means the Secretary of Agriculture or other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

## § 906.3 Department.

"Department" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in this subpart.

## § 906.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

## § 906.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or its products for its members.

## § 906.6 Oklahoma Metropolitan marketing area.

"Oklahoma Metropolitan, marketing area", hereinafter called the "Marketing Area", means all the territory within Tulsa County, the city of Sapulpa, and the township of Sapulpa in Creek County; that part of Black Dog Township in 20 North, Ranges 10, 11, and 12 East in Osage County; the cities of Muskogee, McAlester, Ponca City, and Tahlequah; Oklahoma County, except Deer Creek, Deep Fork, and Luther Townships; Moore, Taylor, Case, Liberty, Norman, and Noble Townships in Cleveland County; Bales, Davis, Dent, Brinton, Rock Creek, Forest, and Earlsboro townships in Pottawatomie County; the city and township of Guthrie in Logan County; the city and township of Stillwater and Union Township, including the city of Cushing in Payne County; and the city of Enid and Vance Air Force Base in Garfield County; all in the State of Oklahoma.

## § 906.7 Distributing plant.

"Distributing plant" means a plant:

(a) Which is approved by a duly constituted state or municipal health authority, or which is acceptable to an agency of the Federal Government for the disposition of milk at an installation in the marketing area;

(b) In which milk or skim milk is processed or packaged; and

(c) Which receives milk from dairy farmers who would be producers if this plant qualified as a pool plant, or Grade A milk in bulk from other pool plants, and from which an amount equal to 50 percent of such receipts is disposed of as Class I milk on routes, and an amount equal to at least 5 percent of such

receipts is disposed of as Class I milk on routes in the marketing area.

#### § 906.8 Supply plant.

"Supply plant" means a plant which receives milk from approved dairy farmers who would be producers if this plant qualified as a pool plant and from which an amount equal to 50 percent of the receipts from such approved farmers is shipped to a distributing plant during the month in the form of fluid milk products: *Provided*, That any plant which qualifies as a pool plant during each of the months of September through December shall be a supply plant for the following months of January through August except that if the operator of such plant so requests the market administrator in writing, its pool plant status shall be terminated the first day of the month following receipt of such notification.

#### § 906.9 Pool plant.

"Pool plant" means:

(a) A distributing plant (other than that of a producer-handler or one which is exempt pursuant to § 906.61);

(b) A supply plant; and

(c) A plant at which milk is received directly from the farms of dairy farmers holding permits or authorizations issued by a health authority having jurisdiction in the marketing area and which is operated by a cooperative association having member producers whose milk is received at other pool plants.

#### § 906.10 Nonpool plant.

"Nonpool plant" means any milk plant which is not a pool plant.

#### § 906.11 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants: *Provided*, That in the case of recognized divisions of a corporation which are operated as separate business units, each such division shall be deemed to be a handler;

(b) Any person in his capacity as the operator of a nonpool plant from which Class I milk is disposed of on routes in the marketing area;

(c) A cooperative association which owns or operates a plant described in § 906.9(c) with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by such cooperative association for the account of such cooperative association (such milk shall be considered to have been received by such cooperative association at a pool plant at the location of the plant to which it is delivered); or

(d) Any cooperative association with respect to the milk of producers which it causes to be diverted to nonpool plants for the account of such cooperative association.

#### § 906.12 Producer.

"Producer" means any person, other than a producer-handler, who under a dairy farm permit, authorization, or rating for the production of milk to be disposed of as Grade A milk issued by a duly constituted state or municipal health au-

thority, or by an agency of the Federal Government located in the marketing area, produces milk which is received at a pool plant directly from the farm of such person. This definition shall include any person meeting the above requirements whose milk is caused by a handler to be diverted from a pool plant to a nonpool plant for the account of such handler, and milk so diverted shall be deemed to have been received at the pool plant from which it is diverted for the purpose of determining location differentials pursuant to § 906.81. This definition shall not include any person with respect to milk produced by him which is received at a plant which is regulated by another order issued pursuant to the Act if the other order requires such person to be designated as a producer or any person with respect to milk produced by him which is deemed to have been received at a plant which is subject to full regulation by the order regulating the handling of milk in the Red River Valley marketing area (Part 963 of this chapter), if such person is designated as a producer under the Red River Valley order.

#### § 906.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk, produced by a producer which is received by a handler either directly from producers or from other handlers as defined in § 906.11(c).

#### § 906.14 Other source milk.

"Other source milk" means all skim milk and butterfat, other than that contained in producer milk or in receipts of fluid milk products from other pool plants, and products designated as Class II milk pursuant to § 906.41(b) from any source (including those from a plant's own production) which are reprocessed or converted to another product in the plant during the accounting period, and any disappearance of nonfluid milk products not otherwise accounted for.

#### § 906.15 Producer-handler.

"Producer-handler" means any person who produces milk and operates a plant which meets the standards in § 906.7(a) from which Class I milk is disposed of on routes in the marketing area, but who receives no milk from producers or other dairy farmers.

#### § 906.16 Route.

"Route" means any delivery (including any delivery by a vendor or disposition at a plant store) of fluid milk products other than a delivery in bulk to a milk plant.

#### § 906.17 Fluid milk products.

"Fluid milk products" mean milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream (except cream stored and frozen), cultured sour cream, and any mixture in fluid form of cream and milk or skim milk (except bulk ice cream mix).

#### § 906.18 Accounting period.

"Accounting period" shall mean a calendar month unless the handler during any calendar month makes a request in writing to the market administrator re-

questing two accounting periods during the month. No accounting period shall be of less than 5 days duration and the request for 2 accounting periods must be made at least 48 hours prior to the end of the first accounting period in the month.

#### MARKET ADMINISTRATOR

#### § 906.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

#### § 906.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

#### § 906.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 906.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 906.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the

Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the day upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 906.30 to 906.32, inclusive;

(2) Maintained adequate records and facilities pursuant to § 906.33, or

(3) Made payments pursuant to §§ 906.80 to 906.88, inclusive;

(i) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association either directly or from producers who are members of such cooperative association, to each handler to whom the cooperative association sells milk. For the purposes of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class;

(j) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum price for Class I milk computed pursuant to § 906.51(a) and the Class I butterfat differential computed pursuant to § 906.52(a), both for the current month; and the minimum price for Class II milk pursuant to § 906.51(b) and the Class II butterfat differential computed pursuant to § 906.52(b) both for the previous month.

(2) On or before the 12th day of each month the uniform price(s) computed pursuant to § 906.72 or § 906.73, as applicable, and the butterfat differential computed pursuant to § 906.82, both for the previous month; and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

#### REPORTS, RECORDS AND FACILITIES

##### § 906.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for each accounting period in the month in detail on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers, and for the months of March through June, 1960, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class II products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on routes wholly outside the marketing area; and

(f) The quantities of skim milk and butterfat contained in opening and closing inventories;

(g) Such other information with respect to receipts and utilization as the market administrator may prescribe.

##### § 906.31 Reports of payments to producers.

On or before the 20th day of each month, each handler who operates a pool plant shall submit to the market administrator his producer payroll for deliveries of the preceding month which shall show: (a) The total pounds of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days on which milk was received from such producers, including for the months of March through June 1960, such producer's deliveries of base and excess milk; (b) the amount of payment to each producer or cooperative association; and (c) the nature and amount of any deductions or charges involved in such payments.

##### § 906.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe, and

(b) Each handler who causes milk to be diverted to a nonpool plant, shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

##### § 906.33 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to: (a) The receipts and utilization of all receipts of producer milk and other source milk; (b) the weights and tests for butterfat and other content of all milk, skim milk, cream, and milk products handled; (c) payments to producers and cooperative association; and (d) the pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and milk products on hand at the beginning and end of each accounting period.

##### § 906.34 Retention of records.

All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain; *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of

specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

#### CLASSIFICATION

##### § 906.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received during each accounting period by a handler which is required to be reported pursuant to § 906.30 shall be classified by the market administrator pursuant to the provisions contained in §§ 906.41 to 906.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

##### § 906.41 Classes of utilization.

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of in the form of fluid milk products except:

(i) Fluid milk products classified as Class II pursuant to paragraph (b) (2), (3), (4), and (8) of this section, and

(ii) Fluid milk products which are fortified with nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unfortified product of the same butterfat content; and

(2) Not specifically accounted for as Class II utilization; and

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In cream stored and frozen;

(3) Disposed of for livestock feed if records and reports satisfactory to the market administrator to verify such use are maintained and submitted as required;

(4) In skim milk dumped after prior notification to, and opportunity for verification by the market administrator;

(5) In actual shrinkage of producer milk in an amount not to exceed one-half percent of the total pounds of skim milk and butterfat received directly from producers' farms, plus one and one-half percent of the total pounds of skim milk and butterfat in milk, skim milk and cream in bulk fluid form received at a pool plant from both producers and other pool plants and which were not disposed of in bulk to the pool plant of another handler;

(6) In shrinkage of bulk other source milk;

(7) In inventory as fluid milk products at the end of the accounting period; and

(8) The weight of skim milk in fortified fluid milk products which is not classified pursuant to paragraph (a) (1) (i) of this section.

**§ 906.42 Shrinkage.**

The market administrator shall determine the assignment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of butterfat and skim milk in each pool plant; and

(b) Assign the shrinkage of skim milk and butterfat pro rata between producer milk and bulk other source milk.

**§ 906.43 Responsibility of handlers and reclassification of milk.**

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified as Class II milk shall be reclassified if such skim milk or butterfat is later disposed of by such handler or another handler (whether in original form or other form) as Class I milk. Any skim milk or butterfat which was classified as Class II in the previous accounting period pursuant to § 906.41(b) (7) shall be reclassified as Class I milk if it is subtracted in the current month from Class I pursuant to § 906.46(a) (6).

**§ 906.44 Transfers.**

Skim milk or butterfat disposed of from a pool plant either by transfer or diversion shall be classified:

(a) As Class I milk if diverted or transferred in bulk in the form of milk, skim milk or cream, including milk caused to be delivered to such handler's pool plant(s) from producers' farms by a cooperative association in its capacity as a handler pursuant to § 906.11(c), to the pool plant of another handler (except a producer-handler) unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred: *Provided*, That the skim milk or butterfat so assigned to Class II shall be limited to the amount thereof remaining in Class II in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 906.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I: *And provided further*, That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk. In no case shall the amount of milk assigned to Class I in the transferee plant be greater than the difference between its total receipts of milk and its total utilization of such milk in Class II;

(b) As Class I milk if transferred to a producer-handler in the form of milk, skim milk or cream;

(c) As Class I milk if diverted or transferred in bulk in the form of milk or skim milk to a nonpool plant located more than 300 miles from the City Hall

in either Oklahoma City or Tulsa, Oklahoma, by the shortest hard-surfaced highway distance as determined by the market administrator:

(d) As Class I milk if transferred in bulk in the form of cream to a nonpool plant located more than 300 miles from the City Hall in either Oklahoma City or Tulsa, Oklahoma, by the shortest hard-surfaced highway distance as determined by the market administrator, unless the handler claims classification as Class II milk, establishes the fact that such cream was transferred without Grade A certification, each container was tagged or labeled to show that contents were only for manufacturing use, the shipment was invoiced accordingly, and the market administrator was given sufficient notice to allow him to verify the shipment;

(e) (1) As Class I milk, if diverted or transferred in bulk in the form of milk, skim milk, or cream to a nonpool plant located not more than 300 miles by the shortest hard-surfaced highway distance from the City Hall in either Oklahoma City or Tulsa, Oklahoma, from which fluid milk is disposed of on wholesale or retail routes or to other milk plants, unless all the following conditions are met:

(i) The market administrator is permitted to audit the records of such nonpool plant; and

(ii) Such nonpool plant received milk from dairy farmers who the market administrator determines constitute its regular sources of supply for Class I milk;

(2) If these conditions are met the market administrator shall classify such milk as reported by the handler subject to verification as follows: (i) Determine the use of all skim milk and butterfat at such nonpool plant, and (ii) allocate the skim milk and butterfat so transferred or diverted to the highest use classification remaining after subtracting in series beginning with the highest use classification, the skim milk and butterfat in milk received at the nonpool plant directly from dairy farmers who the market administrator determines constitute its regular sources of supply for Class I milk;

(f) As Class II milk if diverted or transferred in bulk in the form of milk, skim milk, or cream to a nonpool plant located not more than 300 miles by the shortest hard-surfaced highway distance from the City Hall in either Oklahoma City or Tulsa, Oklahoma, and from which fluid milk is not disposed of on wholesale or retail routes, except that:

(1) If such nonpool plant transfers milk, skim milk, or cream to a pool plant, an equal amount of skim milk and butterfat transferred to such nonpool plant from the pool plants of other handlers shall be deemed to have been transferred directly to the second pool plant and shall be classified pursuant to the provisions of paragraph (a) of this section; and

(2) If such nonpool plant transfers milk, skim milk, or cream to a second nonpool plant which distributes fluid milk on wholesale or retail routes, skim milk or butterfat transferred from the pool plant to the first nonpool plant shall be Class I milk to the extent of the

amount so transferred to such second nonpool plant unless it is established that the milk, skim milk, or cream was transferred to the second nonpool plant without Grade A certification and with each container labeled or tagged to indicate that the contents were for manufacturing use only, and that the shipment was so invoiced.

**§ 906.45 Computation of skim milk and butterfat in each class.**

For each accounting period, the market administrator shall correct for mathematical and for other obvious errors, the accounting period report submitted by each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk.

**§ 906.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 906.45, the market administrator shall determine the classification of producer milk received by each handler in the following manner:

(a) Skim milk shall be allocated as follows:

(1) Subtract from the total pounds of skim milk in Class II milk, the pounds of skim milk in shrinkage of producer milk determined pursuant to § 906.41(b) (5);

(2) Subtract from the remaining pounds of skim milk, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of nonfluid milk products, other than condensed skim milk or nonfat dry milk.

(3) Subtract from the remaining pounds of skim milk, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of condensed skim milk or nonfat dry milk;

(4) Subtract from the remaining pounds of skim milk in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing and payment provisions of another order issued pursuant to the Act;

(5) Subtract from the remaining pounds of skim milk:

(i) In series beginning with Class II milk, the pounds of skim milk in other source milk received in fluid milk products which were subject to the Class I pricing and payment provisions of another order issued pursuant to the Act; but which are not subtracted from Class I pursuant to (ii) of this subparagraph.

(ii) In Class I milk, the pounds of skim milk in sour cream (in case of fortified sour cream, the pounds of an equivalent volume of unfortified sour cream) received in packaged form if such sour cream is priced as Class II pursuant to Part 941 of this chapter and if no sour cream is processed and packaged in the plant during the accounting period.

(6) Subtract from the remaining pounds of skim milk, in series beginning with Class II milk, the pounds of skim milk in inventory at the beginning of the month in the form of fluid milk products;

(7) Subtract from the remaining pounds of skim milk in each class the

skim milk received from other handlers in the form of fluid milk products pursuant to § 906.44;

(8) Add to the pounds of skim milk remaining in Class II, the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(9) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the pounds of skim milk in each class, beginning with Class II milk. Any amount so subtracted shall be called overage;

(b) Butterfat shall be allocated in the same manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk; and

(c) Add together the pounds of skim milk and butterfat in each class computed pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in producer milk allocated to each class.

MINIMUM PRICES

§ 906.50 Basic formula price to be used in determining Class I price.

The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a) and (b) of this section for the preceding month, rounded to the nearest whole cent.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

PRESENT OPERATOR AND LOCATION

- Pet Milk Co., Wayland, Mich.
- Pet Milk Co., Coopersville, Mich.
- Borden Co., Orfordville, Wis.
- Borden Co., New London, Wis.
- Carnation Co., Richland Center, Wis.
- Pet Milk Co., New Glarus, Wis.
- Pet Milk Co., Belleville, Wis.
- White House Milk Co., Manitowoc, Wis.
- White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph;

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the mid-point of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago, as reported by the Department during the month, subtract 3 cents, add 20 percent thereof and multiply by 3.5; and

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.2.

§ 906.51 Class prices.

Subject to the provisions of §§ 906.52 and 906.53, inclusive, the minimum prices per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The basic formula price plus \$1.48 during the months of April, May and June and plus \$1.88 during all other months: *Provided*, That for each of the months of September, October, November and December, such price shall not be less than that for the preceding month, and that for each of the months of April, May and June such price shall be not more than that for the preceding month. To this price add or subtract a "supply-demand adjustment" of not more than 50 cents, computed as follows:

- (1) Divide the total receipts of producer milk in the second and third months preceding by the total gross volume of Class I milk (excluding inter-handler transfers and sales by producer-handlers and handlers partially exempt from this order pursuant to § 906.61) for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the Class I utilization percentage.
- (2) Compute a "net deviation percentage" as follows:
- (i) If the Class I utilization percentage is neither less than the minimum standard utilization percentage specified below nor in excess of the maximum standard utilization percentage specified below, the net deviation percentage is zero,
- (ii) Any amount by which the Class I utilization percentage is less than the minimum standard utilization percentage specified below is a "minus net deviation percentage", and
- (iii) Any amount by which the Class I utilization percentage exceeds the maximum standard utilization percentage specified below is the "plus net deviation percentage";

Month for which price applies	Months used in computation	Standard utilization percentage	
		Minimum	Maximum
January.....	October-November.....	128	136
February.....	November-December.....	117	125
March.....	December-January.....	110	118
April.....	January-February.....	110	118
May.....	February-March.....	119	127
June.....	March-April.....	130	138
July.....	April-May.....	142	150
August.....	May-June.....	160	168
September.....	June-July.....	152	160
October.....	July-August.....	149	157
November.....	August-September.....	140	148
December.....	September-October.....	132	140

(3) For a minus "net deviation percentage" the Class I price shall be increased and for a plus "net deviation percentage" the Class I price shall be decreased as follows:

(i) One-half cent times each such percentage point of net deviation; plus

(ii) One-half cent times the lesser of;

(a) Each such percentage point of net deviation, or

(b) Each percentage point of net deviation of like direction (plus or minus, with any net deviation percentage of opposite direction considered to be zero for purposes of computations of this subparagraph) computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding; plus

(iii) One-half cent times the least of:

(a) Each such percentage point of net deviation;

(b) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the month immediately preceding, or

(c) Each percentage point of net deviation of like direction computed pursuant to subparagraph (2) of this paragraph for the second preceding month.

(iv) Less one-half cent, if necessary, to round down to the nearest whole cent.

(b) *Class II milk.* The average price reported by the Department for the month for milk of 3.5 percent butterfat used in the manufacture of American cheese, evaporated milk, and butter and by-products, f.o.b. plant, United States: *Provided*, That during the months March through August of each year and for each month from the effective date of this order through February 1962, the price for milk, skim milk and cream used in the manufacture of American cheese, butter and nonfat dry milk shall be 10 cents less, subject to the following limitations:

(1) For the purpose of computing the Class II price credit, the volume of milk used in a pool plant for the manufacture of American cheese, butter, and nonfat dry milk shall be reduced by the volume of milk received from other handlers under this order or any other order, on which a similar price credit has been allowed.

(2) Milk used in the manufacture of American cheese, butter and nonfat dry milk within a nonpool plant which has received milk from a handler(s) regulated under this order or any other order which permits a similar price credit, shall be prorated among such handlers, for the purpose of determining the amount of price credit to be allowed such handlers.

§ 906.52 Butterfat differentials to handlers:

If the average butterfat content of the milk of any handler allocated to any class pursuant to § 906.46 is more or less than 3.5 percent, there shall be added to the respective class price, computed pursuant to § 906.51, for each one-tenth of 1 percent that the average butterfat content of such milk is above 3.5 percent or subtracted for each one-tenth of 1 percent that such average butterfat content is below 3.5 percent an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month specified below by the

applicable factor listed and dividing the result by 10:

- (a) *Class I milk.* Multiply such price for the preceding month by 1.25; and  
(b) *Class II milk.* Multiply such price for the current month by 1.15.

**§ 906.53 Location adjustment credit to handlers.**

For that portion of milk which is (a) received directly from producers at a pool plant located 50 or more miles from the City Hall in Oklahoma City by the shortest hard-surfaced highway distance as determined by the market administrator, and (b) is classified as Class I milk, the prices specified in § 906.51 shall be subject to a location adjustment credit to the handler computed as follows:

Distance from the City Hall in Oklahoma City:	Cents per hundredweight.
50 to 150 miles.....	10
150.1 to 165 miles.....	12
165.1 to 180 miles.....	14
180.1 to 195 miles.....	16
195.1 to 210 miles.....	18
210.1 to 225 miles.....	20
225.1 to 240 miles.....	22

Plus 1 cent for each additional 15 miles or fraction thereof in excess of 240 miles: *Provided*, That for the purpose of calculating such adjustment, transfers to a pool plant at which no location adjustment credit is applicable or at which the location adjustment credit is less than at the transferor plant, shall be assigned to Class I milk in a volume not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the receipts from producers at such plant. Such assignment to transferor plants is to be made first to plants at which no adjustment credit is applicable and then in the sequence at which the lowest location adjustment credit would apply.

**§ 906.54 Equivalent prices.**

If, for any reason, a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

**§ 906.55 Rate of compensatory payment.**

The rate of compensatory payment per hundredweight applicable to other source milk assigned to Class I use at pool plants or disposed of as Class I milk on routes in the marketing area from nonpool plants shall be calculated by subtracting the Class II price adjusted by the Class II butterfat differential from the Class I price adjusted by the Class I butterfat differential and, except in the case of condensed skim milk and nonfat dry milk by the location adjustment pursuant to § 906.53 which would apply if the nonpool plant were a pool plant: *Provided*, That in any month in which total receipts of producer milk by all handlers are less than 110 percent of the Class I utilization of all handlers, the rate of compensatory payment shall be zero.

**APPLICATION OF PROVISIONS**

**§ 906.60 Producer-handlers.**

Sections 906.40 through 906.46, 906.50 through 906.53, 906.70 through 906.72 and 906.80 through 906.89, shall not apply to a producer-handler.

**§ 906.61 Handlers subject to other orders.**

In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing agreement or order issued pursuant to the Act and whose milk is classified and priced under such other order, the provisions of this part shall not apply except that the handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

**§ 906.62 Handlers operating nonpool plants.**

Each handler who is the operator of a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the Act shall report as required pursuant to §§ 906.30 and 906.31 reporting receipts from dairy farmers in lieu of such information with respect to producers and shall allow verification of such reports, and on or before the 12th day of each month he shall pay to the market administrator an amount computed by multiplying the total volume of Class I milk disposed of on routes in the marketing area from such nonpool plant during the preceding month by the rate of compensatory payment computed pursuant to § 906.55.

**DETERMINATION OF UNIFORM PRICES**

**§ 906.70 Computation of value of milk.**

The value of milk received during each month by each handler from producers shall be the total of the sums of money computed for each accounting period within the month by the market administrator as follows:

(a) *Handlers who receive milk from producers.* (1) Multiply the pounds of such milk in each class by the applicable respective class prices (adjusted pursuant to §§ 906.52 and 906.53) and add together the resulting amounts;

(2) Add an amount computed by multiplying the pounds of any overage deducted from each class pursuant to § 906.46(a) (9) and the corresponding step of § 906.46(b) by the applicable class price(s); and

(3) Add any charges computed as follows:

(i) For any skim milk or butterfat in inventory reclassified pursuant to § 906.43(b) which is not in excess of the quantity in producer milk classified as Class II milk (other than as shrinkage) in the handler's plant(s) for the preceding month, a charge shall be computed at the difference between its value at the

Class I price for the current month and its value at the Class II price of the preceding month;

(ii) For any other skim milk or butterfat reclassified pursuant to § 906.43(b) a charge shall be computed at the difference between its value at the Class I price for the current month and its value at the Class II price for the month in which previously classified as Class I milk;

(iii) For any skim milk or butterfat subtracted from Class I pursuant to § 906.46(a) (2), (3) and (4) and the corresponding steps of § 906.46(b) multiply the pounds of milk so subtracted by the rate of compensatory payment as determined pursuant to § 906.55.

(b) *Handlers who operate pool plant, but who receive no milk from producers*

(1) If any overage has been deducted pursuant to § 906.46(a) (9) or the corresponding step of § 906.46(b), multiply such amount by the applicable class price; and

(2) If any skim milk or butterfat has been subtracted from Class I pursuant to § 906.46(a) (2), (3) and (4) and the corresponding steps of § 906.46(b) multiply the pounds of milk so subtracted by the rate of compensatory payment as determined pursuant to § 906.55 and add such value to that computed pursuant to subparagraph (1) of this paragraph

**§ 906.71 Computation of aggregate value used to determine price(s).**

For each month, the market administrator shall compute an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the value computed pursuant to § 906.70 for all handlers who made the reports prescribed in § 906.30 and who made the payments pursuant to §§ 906.80 and 906.84 for the preceding month.

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 906.81.

(c) Add not less than one-half of the cash balance on hand in the producer settlement fund less the total amount of the contingent obligations to handlers pursuant to § 906.85.

(d) Subtract if the average butterfat content of the milk included in these computations is greater than 3.5 percent or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 906.82 and multiplying the resulting figure by the total hundredweight of such milk.

**§ 906.72 Computation of uniform price**

For each month the market administrator shall compute the uniform price per hundredweight for all milk of 3.5 percent butterfat content received from producers as follows:

(a) Divide the aggregate value computed pursuant to § 906.71 by the total hundredweight of milk included in such computation; and

(b) Subtract not less than 4 cents nor more than 5 cents.

#### PAYMENTS

##### § 906.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer to whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to § 906.72, adjusted by the butterfat differential computed pursuant to § 906.82, subject to location adjustments to producers pursuant to § 906.81, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment pursuant to § 906.85, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

(b) On or before the last day of each month, to each producer for whom payment is not made pursuant to paragraph (d) of this section for milk received from him during the first 15 days of the month at not less than the Class II price for the preceding month;

(c) To a cooperative association with respect to milk for which the cooperative association is a handler on or before the 10th day of each month for milk which is caused to be delivered to such handler during the preceding month at not less than the value of such milk at the applicable class prices; and

(d) (1) Upon receipt of written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall,

(i) Pay to the cooperative association on or before the 13th and 27th days of each month in lieu of payments pursuant to paragraphs (a) and (b), respectively of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owed by each member producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer,

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member producer,

(a) The total pounds of milk received during the preceding month,

(b) The total pounds of butterfat contained in such milk,

(c) The number of days on which milk was received,

(d) The amounts withheld by the handler in payment for supplies sold, and

(iii) Submit to the cooperative association on or before the 25th day of each month, written information which shows for each member producer the total pounds of milk received during the first 15 days of the current month. The foregoing payment and submission of information shall be made with respect to milk of each producer, who the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following the receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative and shall be subject to verification at his discretion through audits of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

##### § 906.81 Location adjustment to producers.

In making payments to producers pursuant to § 906.80 each handler may deduct for each hundredweight of milk received from producers at a pool plant which is located 50 miles or more from the City Hall in Oklahoma City by the shortest hard-surfaced highway distance as determined by the market administrator the applicable amounts set forth below:

Distance from the City Hall in Oklahoma City:	Cents per hundredweight
50 to 150 miles.....	10
150.1 to 165 miles.....	12
165.1 to 180 miles.....	14
180.1 to 195 miles.....	16
195.1 to 210 miles.....	18
210.1 to 225 miles.....	20
225.1 to 240 miles.....	22

Plus 1 cent for each additional 15 miles or fraction thereof in excess of 240 miles.

##### § 906.82 Producer butterfat differential.

In making payments pursuant to § 906.80 there shall be added to or subtracted from the uniform price for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 3.5 percent, an amount computed by multiplying by 1.2 the simple average, as computed by the market administrator, of the daily wholesale selling prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

##### § 906.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund", into which he shall deposit all payments made by handlers pursuant to §§ 906.62, 906.84 and 906.86, and out of which he shall make all payments to handlers pursuant to §§ 906.85 and 906.86, inclusive.

##### § 906.84 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month during which the milk was received, each handler including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 906.70 is greater than the amount required to be paid producers by such handler pursuant to § 906.80.

##### § 906.85 Payment out of the producer-settlement fund.

On or before the 14th day after the end of the month during which the milk was received the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 906.70 is less than the amount required to be paid producers by such handler pursuant to § 906.80: *Provided*, That, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

##### § 906.86 Adjustments of accounts.

Whenever audit by the market administrator of any handler's reports, books, records or accounts discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

##### § 906.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 906.80 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such money shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually per-

forming the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of the month pay such deduction to the cooperative association rendering such services, identified by a statement showing for each such producer the information required to be reported to the market administrator pursuant to § 906.31. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 906.31.

#### § 906.88 Expense of administration.

As his pro rata share of the expense of administration of this subpart each handler (a) who operates a pool plant(s) shall pay to the market administrator on or before the 15th day after the end of the month, 4 cents per hundredweight, or such amount not exceeding 4 cents per hundredweight as the Secretary may prescribe, with respect to all receipts within the month of (1) other source milk which is classified as Class I milk, and (2) milk from producers including such handler's own production: *Provided*, That with respect to payments pursuant to (1) and (2) of this paragraph, for each handler using two accounting periods in a month, the rate of payment shall be twice the rate for monthly accounting periods, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting period, and (b) each handler who operates a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the Act shall make such payments only with respect to Class I milk disposed of on routes within the marketing area.

#### § 906.89 Termination of obligation.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The month(s) during which the milk with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15) (A) of the Act, a petition claiming such money.

#### EFFECTIVE TIME, SUSPENSION OR TERMINATION

#### § 906.90 Effective time.

The provisions of this part or any amendment to this subpart shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 906.91.

#### § 906.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

#### § 906.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (in-

cluding the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

#### § 906.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

#### MISCELLANEOUS PROVISIONS

#### § 906.100 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

#### § 906.101 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: December 1, 1961.

Signed at Washington, D.C., on November 21, 1961.

JAMES T. RALPH,  
Assistant Secretary.

[F.R. Doc. 61-11193; Filed, Nov. 24, 1961; 8:52 a.m.]

[Navel Orange Reg. 216]

### PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

#### § 914.516 Navel Orange Regulation 216.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee established under the said amended marketing agreement and order, and upon

other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 22, 1961.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., November 26, 1961, and ending at 12:01 a.m., P.s.t., December 3, 1961, are hereby fixed as follows:

- (i) District 1: 500,000 cartons;
- (ii) District 2: Unlimited movement;
- (iii) District 3: 100,000 cartons;
- (iv) District 4: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 24, 1961.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Agricultural Market-  
ing Service.

[F.R. Doc. 61-11270; Filed, Nov. 24, 1961;  
11:29 a.m.]

[Tangerine Reg. 227]

## PART 933—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Limitation of Shipments

#### § 933.1079 Tangerine Regulation 227.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangerines, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on November 21, 1961, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangerines; it is necessary, in order to effectuate the declared policy of the act, to make this

section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of tangerines, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, and standard pack, as used herein, shall have the same meaning as is given to the respective term in the United States Standards for Florida Tangerines (§§ 51.1810-51.1834 of this title; 25 F.R. 8216).

(2) During the period beginning at 12:01 a.m., e.s.t., November 27, 1961, and ending at 12:01 a.m., e.s.t., December 4, 1961, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangerines, grown in the production area, that do not grade at least U.S. No. 1; or

(ii) Any tangerines, grown in the production area, that are of a size smaller than the size that will pack 176 tangerines, packed in accordance with the requirements of a standard pack, in a half-standard box (inside dimensions 9½ x 9½ x 19½ inches; capacity 1,726 cubic inches).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 22, 1961.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F.R. Doc. 61-11244; Filed, Nov. 24, 1961;  
9:00 a.m.]

[Milk Order 42]

## PART 942—MILK IN NEW ORLEANS MARKETING AREA

### Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the New Orleans marketing area (7 CFR Part 942), it is hereby found and determined that:

(a) The following provisions of the order appearing in § 942.14 do not tend to effectuate the declared policy of the Act during the month of December 1961: "for not more than 10 days" in paragraph (2) and paragraph (3) in its entirety which reads as follows:

"(3) Milk delivered for the account of a handler to a nonpool plant for more than ten days during September through December, shall not be considered as producer milk during the whole period of its delivery to a nonpool plant."

(b) Notice of proposed rule making, public procedure thereon, and 30 days' notice of effective date hereof are im-

practical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions in the marketing area and to maintain orderly marketing conditions in the marketing area.

(3) Revision of the diversion provisions to permit unlimited diversion during the month of December was considered at a hearing held in New Orleans, Louisiana, on November 2, 1961. Sufficient time does not remain to process the necessary order amendment on the basis of the evidence received for the record at the hearing. This action will implement the handling of heavy reserve supplies of producer milk which are attributed to unusually favorable weather conditions. This suspension action will continue to permit unlimited diversions of producer milk which has been established by previous suspension action for the period October 7 through November 30, 1961.

(4) This suspension action was requested by Gulf Milk Association, Inc., the major cooperative association representing producers on the market.

Therefore, good cause exists for making this order effective December 1, 1961.

*It is therefore ordered*, That the aforesaid provisions of the order are hereby suspended for the month of December 1961.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: December 1, 1961.

Signed at Washington, D.C., on November 21, 1961.

JAMES T. RALPH,  
Assistant Secretary.

[F.R. Doc. 61-11196; Filed, Nov. 24, 1961;  
8:52 a.m.]

[Milk Order 43]

## PART 943—MILK IN NORTH TEXAS MARKETING AREA

### Order Amending Order

#### § 943.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the

tentative marketing agreement and to the order regulating the handling of milk in the North Texas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than December 1, 1961. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Acting Secretary, United States Department of Agriculture was issued September 15, 1961, and the decision containing all amendment provisions of this order, was issued October 26, 1961. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1961, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER (sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

*Order relative to handling.* It is therefore ordered, That on and after the effective date hereof the handling of milk in the North Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended and as hereby further amended:

Delete § 943.51(a) and substitute therefor the following:

(a) *Class I milk.* The basic formula price for the preceding month (rounded to the nearest one-tenth of a cent) plus \$1.85 for the months of March through June and plus \$2.25 for all other months, subject to a supply-demand adjustment of not more than 50 cents computed as follows:

(1) Divide the total receipts of producer milk by the total volume of Class I milk (excluding interhandler transfers and any intermarket transfers that would result in the same milk being accounted for the second time as Class I milk) under this Part and Parts 949, 952, 982, and 998 of this Chapter regulating the handling of milk in the North Texas, San Antonio, Austin-Waco, Central West Texas and Corpus Christi marketing areas, respectively, in each of the following periods and round to one-tenth of one percent:

(i) The one-year period ending with the second preceding month;

(ii) The four-month period ending with the second preceding month; and

(iii) The four-month period ending with the second preceding month and the same period of the preceding year.

(2) Divide the utilization percentage computed pursuant to subparagraph (1)(iii) of this paragraph by the utilization percentage computed pursuant to subparagraph (1)(i) of this paragraph. Adjust the resulting "seasonal ratio" as follows:

(i) Add to the seasonal ratio a similar computation for each of the 11 preceding periods;

(ii) Divide 12 by the sum thus obtained; and

(iii) Divide the seasonal ratio by the quotient obtained in subdivision (ii) of this subparagraph.

(3) Compute the standard utilization percentage by multiplying the adjusted seasonal ratio of subparagraph (2)(iii) of this paragraph by 118.0.

(4) Subtract from the standard utilization percentage computed pursuant to subparagraph (3) of this paragraph the current utilization percentage computed pursuant to subparagraph (1)(ii) of this paragraph and round to the nearest full percentage. The result is the deviation percentage.

(5) Compute a sum of the deviation percentages for the current and the preceding month, excluding the deviation percentage for the preceding month when it is in the opposite direction from the deviation percentage of the current month, and excluding when it is the same direction, any amount by which such deviation percentage exceeds the deviation percentage for the current month.

(6) Compute the number of cents which is one times the sum of the plus or minus deviation percentages, as the

case may be, computed pursuant to subparagraph (5) of this paragraph and increase or decrease, respectively, the Class I price by such sum: *Provided*, That after the first month in which this provision is effective if such adjustment varies from that for the preceding month by less than 4 cents, the supply-demand adjustment for the preceding month shall be the supply-demand adjustment for the current month.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective Date: December 1, 1961.

Signed at Washington, D.C., on November 21, 1961.

JAMES T. RALPH,  
Assistant Secretary.

[F.R. Doc. 61-11195; Filed, Nov. 24, 1961;  
8:52 a.m.]

[Lemon Reg. 927]

## PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

#### § 953.1034 Lemon Regulation 927.

(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the afore-

said recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 21, 1961.

(b) *Order*. (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., November 26, 1961, and ending at 12:01 a.m., P.s.t., December 3, 1961, are hereby fixed as follows:

- (i) District 1: 27,900 cartons;
- (ii) District 2: 120,900 cartons;
- (iii) District 3: 74,400 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 22, 1961.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F.R. Doc. 61-11243; Filed, Nov. 24, 1961;  
9:00 a.m.]

[Grapefruit Reg. 139]

## PART 955—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF., AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

### Limitation of Shipments

#### § 955.400 Grapefruit Regulation 139.

(a) *Findings*. (1) Pursuant to the marketing agreement, as amended, and Order No. 55, as amended (7 CFR Part 955), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of White Water, California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Administrative Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time inter-

vening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective date. The Administrative Committee held an open meeting on November 15, 1961, to consider recommendations for a regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such open meeting; necessary supplemental economic and statistical information upon which this recommended regulation is based were received by the Fruit Branch on November 20, 1961; information regarding the provisions of the regulation recommended by the committee has been disseminated to shippers of grapefruit, grown as aforesaid, and this section, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this section effective on the date hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order*. (1) During the period beginning at 12:01 a.m., P.s.t., November 26, 1961, and ending at 12:01 a.m., P.s.t., January 14, 1962, no handler shall handle:

(i) From the State of California or the State of Arizona to any point outside thereof any grapefruit of any variety grown in the State of Arizona; in Imperial County, California; or in that part of Riverside County, California, situated south and east of White Water, California, unless (a) such grapefruit are well colored, and otherwise grade at least U.S. No. 2: *Provided*, That included in the tolerances for defects permitted by such grade not more than 5 percent, by count, shall be allowed for grapefruit having peel more than one inch in thickness at the stem end, measured from the flesh to the highest point of the peel, and (b) not less than 50 percent, by count, of such grapefruit in any lot, and not less than 40 percent, by count, of such grapefruit in any individual container in such lot are well formed; or

(ii) From the State of California or the State of Arizona to any point outside thereof in the United States, any grapefruit, grown as aforesaid, which measure less than  $3\frac{1}{16}$  inches in diameter, except that a tolerance of 5 percent, by count, of grapefruit smaller than the foregoing minimum size shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerance, specified in the revised United States Standards for Grapefruit (California and Arizona), §§ 51.925-51.955 of this title: *Provided*, That, in determin-

ing the percentage of grapefruit in any lot which are smaller than  $3\frac{1}{16}$  inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size  $4\frac{1}{16}$  inches in diameter and smaller.

(2) As used herein, "handler," "variety," "grapefruit," and "handle" shall have the same meaning as when used in said amended marketing agreement and order; the terms "U.S. No. 2" "well formed" and "well colored" shall each have the same meaning as when used in the aforesaid revised United States Standards for Grapefruit; and "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 21, 1961.

FLOYD F. HEDLUND,  
Director, Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F.R. Doc. 61-11172; Filed, Nov. 24, 1961;  
8:47 a.m.]

[Milk Order 86]

## PART 986—MILK IN RED RIVER VALLEY MARKETING AREA

### Order Amending Order

Sec.  
986.0 Findings and determinations.

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986.2 Secretary.  
986.3 Department of Agriculture.  
986.4 Red River Valley marketing area.  
986.5 Person.  
986.6 Producer.  
986.7 Distributing plant.  
986.8 Supply plant.  
986.9 Pool plant.  
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#### CLASSIFICATION

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#### PAYMENTS

986.80 Time and method of payment for producer milk.  
986.81 Producer-settlement fund.  
986.82 Payments to the producer-settlement fund.  
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986.85 Marketing services.  
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#### EFFECTIVE TIME, SUSPENSION OR TERMINATION

986.90 Effective time.  
986.91 Suspension or termination.  
986.92 Continuing obligations.  
986.93 Liquidation.

#### MISCELLANEOUS PROVISIONS

986.100 Agents.  
986.101 Separability of provisions.

AUTHORITY: §§ 986.0 to 986.101 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

### § 986.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Red River Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in this order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundred-weight or such amount not to exceed 5 cents per hundredweight as the Secretary may prescribe, with respect to (a) producer milk, including a handler's own production, (b) other source milk classified as Class I milk; and Class I milk disposed of on routes in the marketing area from nonpool plants.

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than December 1, 1961. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued September 22, 1961 and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued October 27, 1961. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective December 1, 1961, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of

the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

**Order relative to handling.** It is therefore ordered that on and after the effective date hereof the handling of milk in the Red River Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended to read as follows:

#### DEFINITIONS

##### § 986.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Act of 1937, as amended (7 U.S.C. 601 et seq.).

##### § 986.2 Secretary.

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

##### § 986.3 Department of Agriculture.

"Department of Agriculture" means the United States Department of Agriculture, or such other Federal agency as may be authorized to perform the price reporting functions specified in this part.

##### § 986.4 Red River Valley marketing area.

"Red River Valley marketing area", hereinafter called "marketing area" means all territory within the following counties including all municipal corporations; Federal reservations, facilities, and installations; and state institutions located therein: Caddo, Carter, Comanche, Grady, Jackson, Kiowa, Stephens, and Tillman in Oklahoma, and Hardeman, Wichita, and Wilbarger in Texas.

##### § 986.5 Person.

"Person" means any individual, partnership, corporation, association or other business unit.

##### § 986.6 Producer.

"Producer" means any person, other than a producer-handler, who produces milk in compliance with the requirements specified in paragraph (a) or in paragraph (b) of this section, which milk is received directly from the farm at a pool plant or is caused to be diverted by a handler within the limits prescribed in § 986.63:

(a) Produces milk on a dairy farm subject to regular inspection by a duly constituted state or municipal health authority, under a dairy farm rating or permit issued by such authority for the production of milk to be disposed of for fluid consumption;

(b) Produces milk which is acceptable to an agency of the Federal Government

for fluid consumption in its reservation, facility, or installation.

The term producer shall not include any person with respect to milk received by a handler who is partially exempt from the provisions of this part pursuant to § 986.61; nor shall it include a person whose milk is diverted to a pool plant by a cooperative association if such person retains his status as a producer as defined in another order issued pursuant to the act and his milk is classified and priced under such other order.

##### § 986.7 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant: (a) which is subject to regular inspection by a duly constituted state or municipal health authority, or by an agency of the Federal Government located in the marketing area, (b) in which milk or skim milk is processed or packaged and (c) from which Class I milk is disposed of during the month on routes (including routes operated by vendors or through plant stores) to wholesale or retail outlets located in the marketing area (except deliveries in bulk to other pool plants) in an amount greater than an average of 600 pounds per day.

##### § 986.8 Supply plant.

"Supply plant" means all the buildings, premises, and facilities of a plant from which fluid milk products equal to not less than 50 percent of its receipts of milk from dairy farmers, who would be producers if this plant qualified as a pool plant, are shipped to a distributing plant during such month: *Provided*, That any plant which qualifies as a supply plant for each of the months of September through December shall, upon written application to the market administrator before January 31 of the following year, be designated as a supply plant for the months of January through August.

##### § 986.9 Pool plant.

"Pool plant" means a distributing plant (other than that of a producer-handler or one which is exempt pursuant to § 986.61) or a supply plant.

##### § 986.10 Nonpool plant.

"Nonpool plant" means any milk processing or manufacturing plant other than a pool plant.

##### § 986.11 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a nonpool plant from which Class I milk is disposed of in the marketing area; or

(c) A cooperative association with respect to the milk of producers diverted for the account of such association from a pool plant to a nonpool plant within the limits prescribed in § 986.63.

##### § 986.12 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) Has and is exercising full authority in the sale of milk of its members.

##### § 986.13 Producer-handler.

"Producer-handler" means any person who produces milk and who operates a plant from which there is distributed as Class I milk on routes in the marketing area only milk of such person's own production or milk which has been received from a pool plant.

##### § 986.14 Producer milk.

"Producer milk" means all skim milk or butterfat contained in milk of a producer which is received at a pool plant or which is diverted within the limits prescribed in § 986.63.

##### § 986.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream or any mixture in fluid form of cream and milk or skim milk (except cultured sour cream, frozen storage cream, aerated cream products, ice cream and frozen dessert mix, evaporated or condensed milk, and sterilized products in hermetically sealed containers).

##### § 986.16 Other source milk.

"Other source milk" means all skim milk and butterfat, other than that contained in producer milk or in receipts of fluid milk products from other pool plants, including products designated as Class II milk pursuant to § 986.41(b) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month and any disappearance of nonfluid milk products not otherwise accounted for.

##### § 986.17 Base milk.

"Base milk" means milk received at a pool plant(s) from a producer during any of the months of March through June which is not in excess of such producer's daily average base computed pursuant to § 986.65 multiplied by the number of days in such month.

##### § 986.18 Excess milk.

"Excess milk" means milk received at a pool plant(s) from a producer during any of the months of March through June which is in excess of the base milk of such producer for such months, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 986.65.

#### MARKET ADMINISTRATOR

##### § 986.25 Designation.

The agency for the administration of this part shall be a market administrator, who shall be a person selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

**§ 986.26 Powers.**

The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations; and
- (d) To recommend amendments to the Secretary.

**§ 986.27 Duties.**

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties, and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds received pursuant to § 986.86: (1) The cost of his bond and the bonds of his employees, (2) his own compensation, and (3) all other expenses (except those incurred under § 986.85) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this section and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly disclose, at his discretion, unless otherwise directed by the Secretary, the name of any handler who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 986.30 and 986.31 or payments pursuant to §§ 986.80 to 986.86;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk and the percentage relationship of such receipts to the total pounds of Class I milk available to assign to such receipts exclusive of the Class I milk disposed of by such handler to the pool plants(s) of other handlers and to nonpool plants. For the purpose of these reports the milk so received from members of such association shall be

prorated to each class in accordance with the same percentage as the total receipts of producer milk bear to such utilization of milk by such handler;

(i) Verify all reports and payments of each handler by audit of the records of such handler or any other handler or person to whom skim milk and butterfat are transferred, or by such other means as are necessary;

(j) Prepare and make available for the benefit of producers, consumers and handlers, general statistics and information concerning the operation of this part which do not reveal confidential information; and

(k) On or before the date specified publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each month as follows:

(1) On or before the 12th day of each month, the Class I price and the Class I butterfat differential, both for the current month;

(2) On or before the 5th day of each month, the Class II price, and the Class II butterfat differential, both for the preceding month; and

(3) On or before the 12th day of each month, the uniform price(s) computed pursuant to § 986.71 or § 986.72, whichever is applicable, and the butterfat differential computed pursuant to § 986.73, both for the preceding month.

**REPORTS, RECORDS, AND FACILITIES****§ 986.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers and, for the months of March through June, the aggregate quantities of base milk and excess milk;

(b) The quantities of skim milk and butterfat contained in (or used in the production of) receipts of fluid milk products from other handlers;

(c) The quantities of skim milk and butterfat contained in (or used in the production of) other source milk (except Class II products disposed of in the same form in which received without further processing or packaging by the handler) and any disappearance of other source milk held in inventory;

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I products on routes wholly outside the marketing area;

(f) The quantities of fluid milk products on hand at the beginning and end of the month; and

(g) Such other information with respect to receipts and utilization as the market administrator may prescribe.

**§ 986.31 Reports of payments to producers.**

On or before the 20th day of each month, each handler shall submit to the

market administrator his producer payroll for deliveries of the preceding month showing:

(a) The total pounds of milk received from each producer and cooperative association, the total pounds of butterfat contained in such milk and the number of days' production represented by the milk received from such producer(s), including for the months of March through June each producer's deliveries of base and excess milk;

(b) The amount of payment to each producer or cooperative association; and

(c) The nature and amount of any deductions or charges involved in such payments.

**§ 986.32 Other reports.**

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler who causes milk to be diverted to another pool plant or to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which it is to be diverted.

**§ 986.33 Records and facilities.**

Each handler shall maintain and make available to the market administrator or his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and milk products on hand at the beginning and end of each month.

**§ 986.34 Retention of records.**

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15) (A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 986.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 986.30 shall be classified by the market administrator pursuant to the provisions contained in § 986.41 to § 986.46, inclusive. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 986.41 Classes of utilization.

Subject to the conditions set forth in §§ 986.43 and 986.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of in the form of fluid milk products except:

(i) Fluid milk products classified as Class II pursuant to paragraph (b) (2), (4), and (7) of this section, and

(ii) Fluid milk products which are fortified with nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of an unfortified product of the same butterfat content; and

(2) Not specifically accounted for as Class II milk;

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of to commercial food manufacturing establishments which do not dispose of fluid milk products for fluid consumption;

(3) Contained in inventories of fluid milk products on hand at the end of the month;

(4) Skim milk disposed of for livestock feed, or dumped after prior notification to and opportunity for verification by the market administrator;

(5) In shrinkage not to exceed 2 percent of the skim milk and butterfat contained in producer milk, except that diverted pursuant to § 986.63; and

(6) In shrinkage of other source milk.

(7) The weight of skim milk in fortified fluid milk products which is not classified in subdivision (a) (1) (ii) of this section.

§ 986.42 Shrinkage.

The market administrator shall determine the assignment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of skim milk and butterfat in each pool plant; and

(b) Assign the shrinkage of skim milk and butterfat pro rata between producer milk and other source milk received in the form of a fluid milk product.

§ 986.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who

first receives such skim milk and butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified as Class II milk, if later disposed of by such handler or another handler (whether in original or other form) as any fluid milk product, shall be reclassified as Class I milk. Any skim milk or butterfat classified as Class II milk in the previous month pursuant to § 986.41 (b) (3) shall be reclassified as Class I milk if it is subtracted from Class I during the current month pursuant to § 986.46(a) (6) or the corresponding step of § 986.46(b).

§ 986.44 Transfers.

Skim milk and butterfat if disposed of by a handler by transfer or diversion from a pool plant shall be classified as follows:

(a) If transferred or diverted to a pool plant of another handler (except a producer-handler) in the form of fluid milk products it shall be classified so as to result in the maximum assignment of the producer milk of both handlers to Class I milk. Any additional amounts of skim milk and butterfat shall be classified as Class I milk unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 986.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk for any month shall be limited to the respective amounts thereof remaining in Class II milk for such month at the pool plant(s) of the receiving handler after subtraction of other source milk pursuant to § 986.46;

(b) As Class I milk, if transferred to the plant of a producer-handler in the form of fluid milk products;

(c) As Class I milk, if diverted or transferred in bulk in the form of milk or skim milk to a nonpool plant located more than 350 miles from the City Hall in Wichita Falls, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator;

(d) As Class I milk, if transferred in the form of cream to a nonpool plant, located more than 350 miles from the City Hall in Wichita Falls, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator, unless the handler claims classification as Class II milk, establishes the fact that such cream was transferred without Grade A certification, each container was tagged or labeled to show that the contents were only for manufacturing use the shipment was invoiced accordingly, and the market administrator was given sufficient notice to allow him to verify the shipment;

(e) (1) As Class I milk, if transferred or diverted in bulk form as milk, skim milk, or cream to a nonpool plant located not more than 350 miles by the shortest hard-surfaced highway distance from the City Hall in Wichita Falls, Texas, from which fluid milk is disposed of on wholesale or retail routes or to other milk plants, unless the handler claims classification of Class II milk pursuant to § 986.30 and all of the following conditions are met:

(i) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant and the market administrator is permitted to audit such books and records for purposes of verification; and

(ii) Such nonpool plant received milk from dairy farmers who constitute a regular source of supply for Class I use as determined by the market administrator;

(2) If the above conditions are fulfilled, the market administrator shall classify such milk, subject to verification, in the following manner: (i) Determine the use of all skim milk, and butterfat at such nonpool plant, and (ii) allocate the skim milk and butterfat so transferred to the highest use classification remaining after allowing first priority to that received at the nonpool plant directly from dairy farmers whom the market administrator determines constitute its regular source of Grade A milk for Class I use;

(f) As Class II milk, if transferred or diverted in bulk form as milk, skim milk, or cream to a nonpool plant which is not a pool plant as defined in any other order issued pursuant to the Act and which is located not over 350 miles from the City Hall, Wichita Falls, Texas, and from which no fluid milk is disposed of on wholesale or retail routes, except:

(1) If milk, skim milk, or cream is transferred from such nonpool plant to a pool plant, an amount equal to the skim milk and butterfat transferred to such nonpool plant from the pool plants of other handlers shall be deemed to have been transferred directly to the second pool plant and shall be classified in accordance with paragraph (a) of this section; and

(2) If milk, skim milk, or cream is transferred from such nonpool plant to a second nonpool plant from which fluid milk is distributed on wholesale or retail routes, the skim milk or butterfat transferred from the pool plant to the first nonpool plant shall be Class I milk in an amount equal to that transferred to such second nonpool plant, unless it is established that such milk or skim milk was transferred to the second nonpool plant without Grade A certification with each container labeled to show that the contents were for manufacturing use only, and that the shipment was invoiced accordingly.

(g) As Class II milk if transferred or diverted in bulk form as milk, skim milk or cream to a nonpool plant which is a pool plant as defined in another order issued pursuant to the Act and which is located not over 350 miles from the City Hall in Wichita Falls, Texas, and from which no fluid milk is distributed on wholesale or retail routes, except that if such transferee plant disposes of to other nonpool plants, which do distribute fluid milk products on wholesale or retail routes, more milk than the milk received at such transferee plant which is classified and priced under such other order, an amount equal to the difference shall be classified as Class I milk, except that if such transferee plant has received milk, skim milk or cream from other plants regulated under this or

other Federal orders, the amount of such transferred milk allocated to Class I shall be determined by prorating the amount of milk available for Class I allocation in accordance with the receipts from all such plants at the transferee plant.

**§ 986.45 Computation of the skim milk and butterfat in each class.**

For each month, the market administrator shall correct for mathematical or other obvious errors the monthly report submitted by each handler pursuant to § 986.30, and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk. Skim milk contained in any product utilized, produced or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

**§ 986.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 986.45, the market administrator shall determine the classification of milk received from producers for each handler in the following manner:

(a) Skim milk shall be allocated as follows:

(1) Subtract from the total pounds of skim milk in Class II milk, the pounds of shrinkage of skim milk in producer milk determined pursuant to § 986.41(b)(5);

(2) Subtract from the remaining pounds of skim milk, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of nonfluid milk products other than condensed skim milk or nonfat dry milk;

(3) Subtract from the remaining pounds of skim milk in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of condensed skim milk or nonfat dry milk;

(4) Subtract from the remaining pounds of skim milk, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing and payment provisions of another order issued pursuant to the act;

(5) Subtract from the remaining pounds of skim milk, in series beginning with Class II milk, the pounds of skim milk in other source milk received in fluid milk products which were subject to the Class I pricing and payment provisions of another order issued pursuant to the act;

(6) Subtract from the remaining pounds of skim milk, in series beginning with Class II milk, the pounds of skim milk in inventory at the beginning of the month in the form of fluid milk products;

(7) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of fluid milk products pursuant to § 986.44;

(8) Add to the pounds of skim milk remaining in Class II the pounds of skim

milk subtracted pursuant to subparagraph (1) of this paragraph; and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk received from producers, subtract such excess from the pounds of skim milk remaining in the classes in series beginning with Class II milk. Any amount so subtracted shall be called "overage";

(b) Butterfat shall be allocated in the same manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to producer milk; and

(c) Add the pounds of skim milk and the pounds of butterfat in each class computed pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in producer milk allocated to each class.

**MINIMUM PRICES**

**§ 986.50 Class prices.**

Subject to the provisions of §§ 986.51 and 986.52 the minimum price per hundredweight to be paid by each handler for milk received at his plant from producers during the month shall be as follows:

(a) *Class I milk.* The Class I price shall be the price for Class I milk established under Federal Order No. 6 regulating the handling of milk in the Oklahoma Metropolitan marketing area at Oklahoma City, plus 15 cents.

(b) *Class II milk.* The Class II price shall be the price for Class II milk established under Federal Order No. 6 regulating the handling of milk in the Oklahoma Metropolitan marketing area.

**§ 986.51 Butterfat differentials to handlers.**

If the average butterfat content of the producer milk of any handler allocated to any class pursuant to § 986.46 is more or less than 3.5 percent there shall be added to the respective class price, computed pursuant to § 986.50 for each one-tenth of one percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of one percent that such average butterfat content is below 3.5 percent, an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department of Agriculture during the month specified below by the applicable factor listed and dividing the result by 10:

(a) *Class I milk.* Multiply such price for the preceding month by 1.25; and

(b) *Class II milk.* Multiply such price for the current month by 1.15.

**§ 986.52 Location adjustment credit to handlers.**

For that milk which (a) is received from producers at a pool plant located outside the State of Texas and which is classified as Class I, the prices specified in § 986.50 shall be reduced 5 cents per hundredweight, plus an additional 1.5 cents per hundredweight for each 10

miles or fraction thereof that such plant is more than 100 miles distant from the City Hall in Wichita Falls, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator: *Provided*, That in calculating such adjustment, transfers to a pool plant at which a location adjustment credit is not applicable or at which it is less than the transferor plant, shall be assigned to Class I milk only to the extent that Class I disposition at the transferee plant exceeds 95 percent of the receipts from producers at such plant. Such assignment to transferor plants should be made first to plants at which no location adjustment credit is applicable and then in sequence to plants at which the lowest rate of such adjustment credit would apply.

**§ 986.53 Rate of compensatory payments.**

The rate of compensatory payment per hundredweight applicable to other source milk assigned to Class I use at pool plants, or disposed of as Class I milk on routes in the marketing area from nonpool plants, shall be calculated as follows:

(a) For the months of February through July, subtract the Class II milk price, adjusted by the Class II butterfat differential from the Class I price, adjusted by the Class I butterfat differential, and, except in the case of condensed skim milk and nonfat dry milk, by the location adjustment pursuant to § 986.52 which would apply if the nonpool plant were a pool plant; and

(b) For the months of August through January, subtract the uniform price, adjusted by the Class I butterfat differential, from the Class I price, adjusted by the Class I butterfat differential, and, except in the case of condensed skim milk and nonfat dry milk, by the location adjustment pursuant to § 986.52 which would apply if the nonpool plant were a pool plant.

**§ 986.54 Use of equivalent prices.**

If for any reason a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

**APPLICATION OF PROVISIONS**

**§ 986.60 Producer-handlers.**

Sections 986.40 to 986.46, 986.50 to 986.54, 986.65 to 986.67, 986.70 to 986.74, and 986.80 to 986.86, shall not apply to a producer-handler.

**§ 986.61 Handlers subject to other orders.**

In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another milk marketing order issued pursuant to the Act and whose milk is classified and priced under such other order, the provisions of this part shall not apply except that such handler shall, with respect to his total receipts and utilization or disposition of skim milk and butterfat, make reports to the

market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator. Such determination shall be made on the basis of Class I sales during the month unless the other marketing area is entirely within the State of Texas and the other regulating the area provides that the determination be made on the basis of a different period, in which case the same period shall be used in this order.

**§ 986.62 Handlers operating nonpool plants.**

Each handler who is the operator of a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the act, shall report as required pursuant to §§ 986.30 and 986.31, reporting receipts from and payments to dairy farmers in lieu of such information with respect to producers, and shall allow verification of such reports, and, on or before the 12th day of each month, he shall pay to the market administrator an amount computed by multiplying the total volume of Class I milk disposed of on routes in the marketing area from such nonpool plant during the preceding month by the rate of compensatory payment computed pursuant to § 986.53.

**§ 986.63 Diverted milk.**

(a) Milk of a producer diverted by a handler, other than a cooperative association, from a pool plant to the pool plant of another handler for any day during the months of February through July and for not more than 10 days' production of a producer during any month for the period of August through January, shall be deemed to have been received by the diverting handler at the pool plant from which such milk was diverted, except that for the purpose of determining shrinkage pursuant to § 986.41(b)(5), such milk shall be considered as producer milk at the pool plant to which it was diverted. Milk so diverted for more than 10 days during any of the months of August through January, shall be considered as received at the plant to which it was diverted for the entire period of diversion.

(b) Milk diverted by a cooperative association, which does not operate a pool plant, for the account of such association from the pool plant of another handler to a nonpool plant, shall be deemed to have been received by such association at a pool plant at the same location as that from which the milk was diverted.

(c) Milk diverted from a pool plant by the handler operating such pool plant to a nonpool plant shall be considered to have been received at the plant from which diverted.

(d) Milk diverted by a handler, including a cooperative association, to a nonpool plant for more than 29 days' production of a producer during any month during the months of September through December, shall not be considered producer milk for the entire period of such diversion during the month.

**DETERMINATION OF BASE**

**§ 986.65 Computation of daily average base for each producer.**

Subject to the rules set forth in § 986.66, the daily average base of each producer for the months of March through June of each year shall be computed by the market administrator by dividing the total pounds of milk received by a handler(s) at a pool plant(s) from such producer during the months of September through December immediately preceding by the number of days' production delivered by such producer during the period, or by 90, whichever is more: *Provided*, (a) That any person who becomes a producer after the base-forming period and who has established a base under another order issued pursuant to the act shall be assigned a base equal to that which he would have received if he had been a producer during the base-forming period if his milk is received at a pool plant during an entire month, and (b) That for any person who becomes a producer after the 3d day of October of any year by virtue of the plant to which such person delivers his milk having become a pool plant, the market administrator shall compute a base equal to that which such producer would have established had the plant to which he ships his milk been a pool plant during the entire base-forming period.

**§ 986.66 Base rules.**

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the base-forming period;

(b) Base may be transferred during the months of March through June only in the following manner:

(1) In the event of death, retirement or entry into military service of a producer, the entire base may be transferred to a member(s) of such producer's immediate family who carries on the dairy enterprise, such transfer to be effective the first of the month following notification of the market administrator in writing of the person to whom such base is to be transferred;

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to either of the joint holders, or it may be divided, but only if the joint holders are members of the same family, and only upon application to the market administrator prior to the month in which the division is to become effective: *Provided*, That such application sets forth the percentage of the jointly held base which is to be assigned to each of the joint holders or his heirs and is signed by each joint holder or his heirs.

(c) A producer who ceases to deliver milk to a pool plant for more than 45 consecutive days during the six months prior to March 1, shall forfeit his base for the following base-utilization period.

**§ 986.67 Announcement of established bases.**

On or before February 25 of each year, the market administrator shall notify each producer and the handler receiving

milk from such producer, of the daily average base established by the producer.

**DETERMINATION OF UNIFORM PRICES**

**§ 986.70 Computation of value of producer milk for each handler.**

For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 986.46 by the applicable class price (adjusted pursuant to §§ 986.51 and 986.52) and add together the resulting amounts;

(b) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 986.46(a)(2), (3), and (4) and the corresponding step of § 986.46(b) by the rate of compensatory payment as determined pursuant to § 986.53;

(c) Add an amount computed by multiplying the pounds of any average deducted from either class pursuant to § 986.46(a)(9) and the corresponding step of § 986.46(b) by the applicable class price(s); and

(d) Add any charges computed as follows: For any skim milk or butterfat in inventory reclassified pursuant to § 986.43(b), which is not in excess of the quantity in producer milk classified as Class II milk (other than as shrinkage) in the handler's plant(s) for the preceding month, a charge shall be computed at the difference between its value at the Class I price for the current month and its value at the Class II price for the preceding month;

**§ 986.71 Computation of the uniform price.**

For each of the months of July through February, the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content, at Wichita Falls, Texas, as follows:

(a) Combine into one total the values computed pursuant to § 986.70 for the producer milk of all handlers who submitted reports prescribed in § 986.30 and who have made the payments pursuant to §§ 986.80 and 986.82 for the preceding month;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 986.73, and multiply the resulting figure by the total hundredweight of such milk;

(c) Add an amount equal to the total value of all allowable location adjustments to producers pursuant to § 986.74;

(d) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents.

### § 986.72 Computation of uniform prices for base and excess milk.

For each of the months of March through June, the market administrator shall compute the uniform prices per hundredweight for base and for excess milk, each of 3.5 percent butterfat content, at Wichita Falls, Texas, as follows:

(a) Compute the total value of excess milk for all handlers who submitted reports pursuant to § 986.30, and who have made the payments pursuant to §§ 986.80 and 986.82 as follows: (1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price, (2) multiply any additional hundredweight of excess milk not included in subparagraph (1) of this paragraph by the Class I milk price, and (3) add together the resulting amounts;

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat received from producers;

(c) Subtract the total value of excess milk obtained in paragraph (a) of this section from the total value of milk computed pursuant to § 986.71 (a) to (d) and adjust by any amount involved in the adjustment of the uniform price of excess milk to the nearest cent;

(d) Divide the amount obtained in paragraph (c) of this section by the total hundredweight of base milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat received from producers.

### § 986.73 Butterfat differential to producers.

The applicable uniform price(s) to be paid each producer shall be increased or decreased for each one-tenth of one percent that the average butterfat content of his milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 986.51, dividing by the total pounds of butterfat in producer milk and rounding to the nearest even tenth of a cent.

### § 986.74 Location adjustment to producers.

In making payments to producers pursuant to § 986.80, for the months of July through February, each handler may deduct, for each hundredweight of milk, and for the months of March through June for each hundredweight of base milk received from producers at a pool plant which is located outside the State of Texas, 5 cents per hundredweight plus an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 100 miles from the City Hall

in Wichita Falls, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator.

### PAYMENTS

### § 986.80 Time and method of payment for producer milk.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month, to each producer who did not discontinue shipping milk to such handler during the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month;

(2) On or before the 15th day of the following month, an amount equal to not less than the applicable uniform price(s) adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 986.85, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment pursuant to § 986.83, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall:

(i) Pay to the cooperative association on or before the 27th and 13th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owed by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer;

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member-producer (a) the total pounds of milk received during the preceding month, (b) the total pounds of butterfat contained in such milk, (c) the number of days of production included in such receipts, (d) for the months of March through June, the

amount of base and excess milk received, and (e) the amounts withheld by the handler in payment for supplies sold; and

(iii) Submit to the cooperative association on or before the 25th day of each month written information which shows for each such member-producer the total pounds of milk received during the first 15 days of the current month.

The foregoing payment and submission of information shall be made with respect to the milk, of each producer who the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audits of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

### § 986.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 986.62, 986.82, and 986.84, and out of which he shall make all payments to handlers pursuant to §§ 986.83 and 986.84: *Provided*, That any payments due to any handler may be offset by any payments due from such handler.

### § 986.82 Payments to the producer-settlement fund.

On or before the 13th day after the end of each month, each handler shall pay to the market administrator any amount by which the value of producer milk as computed pursuant to § 986.70 for such month is greater than the amount required to be paid by him for such milk pursuant to § 986.80.

### § 986.83 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 986.70, for such month is less than the amount required to be paid producers by such handler pursuant to § 986.80: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the necessary funds are available.

**§ 986.84 Adjustments of accounts.**

Whenever audit by the market administrator or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such errors occurred.

**§ 986.85 Marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 986.80 shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of such deductions and the amount of milk for which such deduction was computed for each producer.

**§ 986.86 Expense of administration.**

On or before the 15th day after the end of each month, each handler who operates a pool plant shall pay to the market administrator, as his pro rata share of the expense of the administration of this part, 5 cents or such lesser amount as the Secretary may prescribe for each hundredweight of butterfat and skim milk contained in (a) producer milk, including such handler's own production, and (b) other source milk classified as Class I milk; and each handler who operates a nonpool plant, not subject to the classification and pricing provisions of another Federal order, shall make such payment only with respect to Class I milk disposed of within the marketing area on routes.

**§ 986.87 Termination of obligations.**

The provisions of this section shall apply to any obligations under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler, if a refund of such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the Act, a petition claiming such money.

**EFFECTIVE TIME, SUSPENSION OR  
TERMINATION**

**§ 986.90 Effective time.**

The provisions of this part, or any amendment thereto, shall become effective

at such time as the Secretary may declare and shall continue in force until suspended or terminated.

**§ 986.91 Suspension or termination.**

The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

**§ 986.92 Continuing obligations.**

If, upon the suspension or termination of any or all provisions of this part, or any amendment thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

**§ 986.93 Liquidation.**

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

**MISCELLANEOUS PROVISIONS**

**§ 986.100 Agents.**

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

**§ 986.101 Separability of provisions.**

If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: December 1, 1961.

Signed at Washington, D.C., on November 21, 1961.

JAMES T. RALPH,  
Assistant Secretary.

[F.R. Doc. 61-11194; Filed, Nov. 24, 1961; 8:52 a.m.]

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission PART 37—GROUP LIFE INSURANCE

#### Appeals

Section 37.12 is added as set out below.

#### § 37.12 Appeals.

(a) An appeal may be taken to the Commission's Board of Appeals and Review from the final action or order of the Bureau of Retirement and Insurance denying insurance coverage, which denial affects the rights or interest of any person or of the United States under the Federal Employees' Group Life Insurance Act.

(b) The time for filing an appeal shall be not later than six months from the date of mailing notice of the final action or order of which complaint is made.

(Sec 11, 68 Stat. 742; 5 U.S.C. 2100)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] MARY V. WENZEL,  
Executive Assistant to  
the Commissioners.

[F.R. Doc. 61-11190; Filed, Nov. 24, 1961;  
8:51 a.m.]

## Title 10—ATOMIC ENERGY

### Chapter I—Atomic Energy Commission

### PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

#### Concentration Limits in Radionuclide Mixtures

On pages 7142 and 7143 of the FEDERAL REGISTER of August 9, 1961 there was published a notice of proposed rule making to amend 10 CFR 20, "Standards for Protection Against Radiation", which would amend the Note to Appendix "B" of Part 20 to provide an additional standard for deriving a concentration limit for any mixture of radionuclides (1) where the identity of each radionuclide in the mixture is known but the concentration of each radionuclide in the mixture is not known, or (2) where the identity of each radionuclide in the mixture is not known but where it can be demonstrated by assay or by the process of elimination that radionuclides other than those presently specified in the Note are not present.

The amendment also specifies criteria for determining conditions under which radionuclides may be considered as not present in a mixture.

Interested persons were given 60 days in which to submit written comments in connection with the proposed amendments. No objections or suggested changes to the proposed amendment have been received by the Commission.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Adminis-

trative Procedure Act of 1946, the proposed amendments of 10 CFR Part 20 are adopted, without change, as a document subject to codification.

**Effective date.** These amendments shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated at Germantown, Maryland, this 15th day of November 1961.

For the Atomic Energy Commission.

WOODFORD B. MCCOOL,  
Secretary.

Part 20 is amended as follows:

1. Revise paragraph 3 of the Appendix "B" Note to read:

c. Element (atomic number) and isotope	Table I		Table II	
	Column 1	Column 2	Column 1	Column 2
	Air (μc/ml)	Water (μc/ml)	Air (μc/ml)	Water (μc/ml)
If it is known that Sr 90, I 129, Pb 210, Po 210, At 211, Ra 223, Ra 224, Ra 226, Ac 227, Ra 228, Th 230, Pa 231, Th 232, and Th-nat are not present.		9×10 <sup>-6</sup>		3×10 <sup>-6</sup>
If it is known that Sr 90, I 129, Pb 210, Po 210, Ra 223, Ra 226, Ra 228, Pa 231, and Th-nat are not present.		6×10 <sup>-6</sup>		2×10 <sup>-6</sup>
If it is known that Sr 90, Pb 210, Ra 226 and Ra 228 are not present.		2×10 <sup>-5</sup> 3×10 <sup>-6</sup>		6×10 <sup>-7</sup> 1×10 <sup>-7</sup>
If it is known that Ra 226 and Ra 228 are not present.	3×10 <sup>-9</sup>		1×10 <sup>-10</sup>	
If it is known that alpha-emitters and Sr 90, I 129, Pb 210, Ac 227, Ra 228, Pa 230, Pu 241 and Bk 249 are not present.	3×10 <sup>-10</sup>		1×10 <sup>-11</sup>	
If it is known that alpha-emitters and Pb 210, Ac 227, Ra 228, and Pu 241 are not present.	3×10 <sup>-11</sup>		1×10 <sup>-12</sup>	
If it is known that alpha-emitters and Ac 227 are not present.	3×10 <sup>-12</sup>		1×10 <sup>-13</sup>	
If it is known that Ac 227, Th 230, Pa 231, Pu 238, Pu 239, Pu 240, Pu 242, and Cf 249 are not present.	2×10 <sup>-12</sup>		7×10 <sup>-14</sup>	
If Pa 231, Pu 239, Pu 240, Pu 242 and Cf 249 are not present.				

2. Add the following paragraph 5 to the Appendix "B" Note:

5. For purposes of this Note, a radionuclide may be considered as not present in a mixture if (a) the ratio of the concentration of that radionuclide in the mixture ( $C_A$ ) to the concentration limit for that radionuclide specified in Table II of Appendix "B" ( $MPC_A$ ) does not exceed  $\frac{1}{10}$ .

(i.e.  $\frac{C_A}{MPC_A} \leq \frac{1}{10}$ ) and (b) the sum of such ratios for all the radionuclides considered as not present in the mixture does not exceed  $\frac{1}{4}$  i.e.

$$\frac{C_A}{MPC_A} + \frac{C_B}{MPC_B} + \dots \leq \frac{1}{4}.$$

[F.R. Doc. 61-11157; Filed, Nov. 24, 1961;  
8:45 a.m.]

## Title 14—AERONAUTICS AND SPACE

### Chapter II—Civil Aeronautics Board SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER-340]

### PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND OF FOREIGN AIR CARRIERS

#### Tariffs to Contain Types and Seating Configuration of Aircraft; Postponement of Effective Date

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1961.

3. If any of the conditions specified below are met, the corresponding values specified below may be used in lieu of those specified in paragraph 2 above.

a. If the identity of each radionuclide in the mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the concentration limit for the mixture is the limit specified in Appendix "B" for the radionuclide in the mixture having the lowest concentration limit; or

b. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in Appendix "B" are not present in the mixture, the concentration limit for the mixture is the lowest concentration limit specified in Appendix "B" for any radionuclide which is not known to be absent from the mixture; or

By Regulation ER-338, the Board has amended Part 221 of the Economic Regulations by adding thereto a new § 221.38(a) (6) which requires that each passenger tariff contain a description of the aircraft type and seating configuration used on the flights to which the tariff applies. This amendment, adopted by the Board on September 27, 1961 as Amendment No. 8 to Part 221, has an effective date of December 1, 1961.

A Petition for Postponement of the Effective Date of Regulation No. ER-338 has been submitted to the Board by several certificated air carriers and a foreign air carrier, Docket 11813. Said petition alleges that the December 1, 1961 deadline does not permit sufficient time for compiling, publishing, and filing the required data for the many existing varieties of aircraft and their individual seating configurations. The petition also states that there is presently under consideration the issuance of a single tariff which would consolidate the seating configuration for the various groups of air carriers, thereby eliminating the plethora of tariff filings by individual carriers. The petition requests a new effective date of February 1, 1962.

The Board finds merit in the above-described petition and believes that a postponement is warranted. Since no additional burden is imposed on any person, the postponement may be made effective without public procedure and on less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby changes the effective date of Amendment No. 8 to Part 221 of its

Economic Regulations (14 CFR Part 21), from December 1, 1961 to February 1, 1962.

Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

F.R. Doc. 61-11219; Filed, Nov. 24, 1961;  
8:54 a.m.]

### Chapter III—Federal Aviation Agency

#### SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 974; Amdt. 372]

#### PART 507—AIRWORTHINESS DIRECTIVES

##### Aeronca Model 15 Series Aircraft

As a result of difficulties being encountered when installing new wing lift strut fittings on Aeronca 15 Series aircraft, in accordance with Amendment 320, 26 F.R. 078, it is necessary to include provision for new fittings designed by the manufacturer and also an acceptable rework of bolt holes which are misaligned.

Since this amendment may afford relief to some operators and imposes no additional burden on any person, notice and public procedures hereon are unnecessary and it may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), 507.10(a) of Part 507 (14 CFR Part 07), is amended as follows:

Amendment 320 (26 F.R. 7078), Aeronca Model 15 Series aircraft, is amended by adding paragraphs (c) and (d) as follows:

(c) When it is necessary to install new fittings, Aeronca P/N 5-463-2, Champion Aircraft Corporation P/N 1-9280, or FAA approved equivalent may be used. Existing AN4 bolts, if not damaged, may be reinstalled in holes that match. No elongation of old holes in struts is permissible.

(d) The following rework may be used if the holes in new fittings and old struts do not match to allow proper installation. AN5 bolts may be installed in all holes or in any combination.

(1) If holes do not match, line-drill the assembled strut and fitting ( $\frac{1}{16}$ "") and ream to accept an AN5 bolt. (.03125" minimum, .3135" maximum diameter.) In the event that portable equipment must be used, drill the hole  $\frac{1}{16}$ " and accomplish the final sizing with a tapered hand reamer to assure alignment.

(2) Install AN5-22A bolts, each with two UN960-516 washers, and AN365-524 nuts in holes that require rework.

(Aeronca Service Helps and Hints No. 59 and Champion Aircraft Corporation Service Helps and Hints No. 59 cover the same subject.)

This amendment shall become effective November 28, 1961.

Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

No. 227—Pt. I—4

Issued in Washington, D.C., on November 20, 1961.

G. S. MOORE,  
Acting Director,  
Flight Standards Service.

[F.R. Doc. 61-11180; Filed, Nov. 24, 1961;  
8:46 a.m.]

#### SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-WA-120]

#### PART 600—DESIGNATION OF FEDERAL AIRWAYS

#### PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

#### PART 608—SPECIAL USE AIRSPACE

##### Designation and Alteration of Restricted Areas

On August 11, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 7301) stating that the Federal Aviation Agency proposed to designate a restricted area southeast of Gainesville, Fla., to be identified as Rodman, Fla., Restricted Area R-2906; to realign the eastern boundary of R-2903A to generally conform to the west bank of the St. Johns River; and to lower the ceiling of the Putnam, Fla., Restricted Area R-2903C to 14,000 feet MSL.

Although not mentioned in the notice, the alteration of the east boundary of this restricted area will eliminate the slight overlap of the restricted area on VOR Federal airway No. 267. Therefore, the current requirement to obtain approval prior to using the portion of VOR Federal airway No. 267 which coincides with R-2903A is no longer necessary and will be revoked.

The Air Transport Association of America in commenting on the amendments contained in the Notice objected to the action taken in the rule published in Airspace Docket No. 60-WA-273 and extended their objections to include the amendments herein. However, as stated in the rule published in Airspace Docket No. 60-WA-273, the amendments contained herein are part of an interim solution of the Jacksonville complex based on agreements reached with the Department of Navy to provide some immediate relief for general aviation in this area. The actions contained herein do not prejudice further action to reduce the size and configuration of the Jacksonville restricted area complex.

No other comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments has been published; therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582)

and for the reasons stated herein and in the notice, the following actions are taken:

1. Section 600.6267 (26 F.R. 7033) VOR Federal airway No. 267 (Miami, Fla., to Knoxville, Tenn.), is amended by deleting the following: "The portion of this airway that coincides with R-2903A shall be used only after obtaining prior approval from appropriate authority".

2. Section 601.7101 (26 F.R. 7033) is amended by deleting the following: R-2903C Putnam, Fla.

3. In § 608.29 (26 F.R. 7033) the following changes are made:

(a) Jacksonville East, Fla., Restricted Area R-2903A is amended to read:

R-2903A Jacksonville East, Fla.:  
*Boundaries.* Beginning at latitude 30°-15'30" N., longitude 81°43'25" W., clockwise along an arc of a circle  $2\frac{1}{2}$  nautical miles in radius centered at latitude 30°14'00" N., longitude 81°41'00" W., to latitude 30°11'25" N., longitude 81°41'00" W., to latitude 29°49'50" N., longitude 81°41'00" W., counterclockwise along an arc of a circle 3 nautical miles in radius centered at latitude 29°47'00" N., longitude 81°41'00" W., to latitude 29°45'15" N., longitude 81°43'40" W., to latitude 29°47'55" N., longitude 81°50'30" W., to latitude 29°50'45" N., longitude 81°-49'15" W., to latitude 29°53'50" N., longitude 81°57'50" W., to latitude 30°00'15" N., longitude 81°52'05" W., to latitude 30°02'05" N., longitude 81°54'45" W., to latitude 29°56'20" N., longitude 82°00'00" W., counterclockwise along an arc of a circle 3 nautical miles in radius centered at latitude 29°53'20" N., longitude 82°00'25" W., to latitude 29°-56'00" N., longitude 82°02'00" W., to latitude 30°15'30" N., longitude 82°02'00" W., to the point of beginning.

*Designated altitude.* Surface to flight level 600.

*Time of designation.* Continuous.

*Controlling agency.* Federal Aviation Agency, Jacksonville ARTC Center.

*Using agency.* Commander, Fleet Air Jacksonville, NAS Jacksonville, Fla.

(b) Putnam, Fla., Restricted Area R-2903C is amended to read:

R-2903C Putnam, Fla.:

*Boundaries.* The area within a 3 nautical mile radius of latitude 29°47'00" N., longitude 81°41'00" W.

*Designated altitudes.* Surface to 14,000 feet MSL.

*Time of designation.* Continuous.

*Controlling agency.* Federal Aviation Agency, Jacksonville ARTC Center.

*Using agency.* Commander, Fleet Air Jacksonville, NAS Jacksonville, Fla.

4. In § 608.29 (26 F.R. 7192) Rodman, Fla., Restricted Area R-2906 is added to read:

R-2906 Rodman, Fla.:

*Boundaries.* Within a 3-nautical mile radius of latitude 29°29'00" N., longitude 81°46'00" W., and within  $1\frac{1}{2}$  nautical miles either side of the 240° and 300° True bearings from the center extending from the 3-nautical mile radius to 10 nautical miles northwest and southwest of the center.

*Designated altitudes.* The 3-nautical mile radius, surface to 14,000 feet MSL; the extensions, surface to 6,000 feet MSL.

*Time of designation.* From sunrise to 2400 eastern standard time.

*Controlling agency.* Federal Aviation Agency, Jacksonville ARTC Center.

*Using agency.* Commander, Fleet Air Jacksonville, NAS Jacksonville, Fla.

These amendments shall become effective 0001 e.s.t. February 8, 1962.

(Sec. 307(a) 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 17, 1961.

D. D. THOMAS,  
Director, Air Traffic Service.

[F.R. Doc. 61-11161; Filed, Nov. 24, 1961;  
8:46 a.m.]

[Airspace Docket No. 61-WA-148]

## PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

### PART 608—SPECIAL USE AIRSPACE

#### Alteration of Restricted Area, Control Area Extension and Continental Control Area

On August 17, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 7707), stating that the Federal Aviation Agency proposed to alter the Pinecastle, Fla., Restricted Area R-2910, the Jacksonville, Fla., control area extension and the continental control area.

The southeast portion of the amended Pinecastle, Fla., Restricted Area R-2910 lies within the Orlando, Fla., control area extension. Concurrently, action is taken herein to amend the Orlando control area extension to provide that the portion of this control area extension within R-2910 shall be used only after obtaining prior approval from appropriate authority. The enlarged portion of the Jacksonville control area extension which overlies the Rodman, Fla., Restricted Area R-2906 designated in Airspace Docket No. 61-WA-120 to become effective concurrently with this Docket, is amended to provide that the portion of this control area extension within R-2906 shall be used only after obtaining prior approval from appropriate authority.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments has been published; therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice, the following actions are taken:

#### § 608.29 [Amendment]

1. In § 608.29 *Florida* (26 F.R. 7193), the Pinecastle, Fla., Restricted Area is amended to read:

R-2910 Pinecastle, Fla.:

*Boundaries.* A circular area with a 5-nautical mile radius centered at latitude 29°06'52" N. longitude 81°42'55" W. including the area within 2.5 nautical miles either side of the 137° and 317° bearings from the center of the circular area, extending from the 5-nautical mile radius to 10 nautical miles SE and NW of the center.

*Designated altitudes.* Within the 5-nautical mile circle, surface to flight level 370; within the SE and NW extensions, surface to 6,000 feet MSL.

*Time of designation.* Continuous.

*Controlling agency.* Federal Aviation Agency, Jacksonville ARTC Center.

*Using agency.* Commander, Fleet Air Jacksonville, NAS Jacksonville, Fla.

2. Section 601.1005 (26 F.R. 7033) is amended to read:

#### § 601.1005 Control area extension (Jacksonville, Fla.).

The airspace within 5 miles either side of the 064° radial of the Jacksonville, Fla., VORTAC extending from the VORTAC to 20 miles NE, and the airspace SW of Jacksonville bounded on the N by low altitude VOR Federal airway No. 22, on the E by low altitude VOR Federal airway No. 267, on the S by latitude 29°00'00" N., on the SW by low altitude VOR Federal airway No. 159, on the W by low altitude VOR Federal airway No. 157. The portions of this control area extension within R-2903A, R-2903B, R-2903C, R-2903D, R-2906, R-2907 and R-2910 shall be used only after obtaining prior approval from appropriate authority.

#### § 601.1138 [Amendment]

3. In § 601.1138 (14 CFR 601.1138) the following is added: "The portion of this control area extension within R-2910 shall be used only after obtaining prior approval from appropriate authority."

#### § 601.7101 [Amendment]

4. In § 601.7101 (26 F.R. 1399) the following is added: R-2910 Pinecastle, Fla.

These amendments shall become effective 0001 e.s.t., February 8, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 17, 1961.

D. D. THOMAS,  
Director, Air Traffic Service.

[F.R. Doc. 61-11163; Filed, Nov. 24, 1961;  
8:46 a.m.]

[Airspace Docket No. 61-WA-126]

## PART 608—SPECIAL USE AIRSPACE

### Alteration of Restricted Area

On August 11, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 7302) stating that the Federal Aviation Agency proposed to alter the designated altitude of the Jacksonville West, Fla., Restricted Area R-2903D by removing the base of 5,000 feet and substituting surface to flight level 600.

The Air Transport Association of America in commenting on the amendment contained in the Notice objected to the action taken in the rule published in Airspace Docket No. 60-WA-273 and extended their objections to include the amendment herein. However, as stated in the rule published in Airspace Docket No. 60-WA-273, the amendment contained herein is part of an interim solution of the Jacksonville complex based on agreements reached with the Depart-

ment of Navy to provide some immediate relief for general aviation in this area. The action contained herein does not prejudice further action to reduce the size and configuration of the Jacksonville restricted area complex.

No other comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments has been published; therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

In § 608.29 (26 F.R. 7033), R-2903D Jacksonville West, Fla., Restricted Area is amended to read:

R-2903D Jacksonville West, Fla.:

*Boundaries.* Beginning at latitude 30°15'30" N., longitude 81°50'00" W.; to latitude 30°15'30" N., longitude 82°02'00" W.; to latitude 29°56'00" N., longitude 82°02'00" W.; counterclockwise along an arc of a circle 3 nautical miles in radius centered at latitude 29°53'30" N., longitude 82°00'25" W., to latitude 29°53'30" N., longitude 82°04'00" W.; to latitude 30°00'00" N., longitude 82°19'30" W.; to latitude 30°03'00" N., longitude 82°20'00" W.; to latitude 30°22'00" N., longitude 82°20'00" W.; to latitude 30°21'20" N., longitude 81°55'45" W.; to point of beginning.

*Designated altitudes.* Surface to flight level 600.

*Time of designation.* Continuous, to terminate December 31, 1962.

*Controlling agency.* Federal Aviation Agency, Jacksonville ARTC Center.

*Using agency.* Commander, Fleet Air Jacksonville, NAS Jacksonville, Fla.

This amendment shall become effective 0001 e.s.t., February 8, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C. on November 17, 1961.

D. D. THOMAS,  
Director, Air Traffic Service.

[F.R. Doc. 61-11162; Filed, Nov. 24, 1961;  
8:46 a.m.]

## Title 15—COMMERCE AND FOREIGN TRADE

### Chapter II—National Bureau of Standards, Department of Commerce

#### SUBCHAPTER A—TEST FEE SCHEDULES

#### PART 205—ANALYTICAL AND INORGANIC CHEMISTRY

##### Pure Substances

In accordance with the provisions of section 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on these schedule of fees are unnecessary for the reason that such procedures, because of the nature of these rules serve no useful purpose. This amendment is effective from the date of publication in the FEDERAL REGISTER.

Part 205 is amended to read as follows

PURE SUBSTANCES

sec.  
205.101. Benzolic acid thermometric standards.  
205.102 Measurement of physical properties of primary reference fuels used for octane number of determination.

AUTHORITY: §§ 205.101 and 205.102 issued under sec. 9, 31 Stat. 1450, as amended; 15 J.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 275a.

PURE SUBSTANCES

§ 205.101a Benzolic acid thermometric standards.

Item	Description	Fee
205.101a	A certified cell, a companion uncertified cell, and a case to hold the pair of cells.....	\$220
205.101b	Replacement cells: 1. Certified cell..... 2. Companion cell.....	155 40

§ 205.102 Measurement of physical properties of primary reference fuels used for octane number determination.

Item	Description	Fee
205.102a	Measurement of physical properties of primary reference fuels used for octane number determination.....	\$445.00

A. V. ASTIN,  
Director.

[F.R. Doc. 61-11187; Filed, Nov. 24, 1961;  
8:50 a.m.]

PART 230—STANDARD SAMPLES AND REFERENCE STANDARDS ISSUED BY NATIONAL BUREAU OF STANDARDS

Descriptive List; Freezing Point Standards

In accordance with the provisions of section 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on these schedules of fees are unnecessary for the reason that such procedures, because of the nature of these rules, serve no useful purpose. This amendment is effective from the date of publication in the FEDERAL REGISTER.

In § 230.11 *Descriptive list*, paragraph (k) *Freezing-point standards* is amended by the revision of sample number 49d to read as follows:

Sample No.	Description	Approximate weight of sample in grams	Price per sample
49c	Lead, freezing point.....	600	\$6.00

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 15 U.S.C. 275a)

A. V. ASTIN,  
Director.

[F.R. Doc. 61-11188; Filed, Nov. 24, 1961;  
8:51 a.m.]

Title 20—EMPLOYEE'S BENEFITS

Chapter III—Bureau of Old-Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Regs. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950 —)

Substantial Gainful Activity; Evidentiary Requirements for Establishment of Disability; Criteria for Evaluating Work

Regulations No. 4, as amended, of the Social Security Administration (20 CFR 404.1 et seq.) are further amended as follows:

1. Section 404.1502 is amended by adding at the end thereof a paragraph (h) to read as follows:

§ 404.1502 Evaluating disability.

(h) Substantial gainful activity is work activity that is both substantial and gainful. Substantial work activity involves the performance of significant physical or mental duties, or a combination of both, productive in nature. Gainful work activity is activity for remuneration or profit (or intended for profit, whether or not a profit is realized) to the individual performing it or to the persons, if any, for whom it is performed, or of a nature generally performed for remuneration or profit. In order for work activity to be substantial, it is not necessary that it be performed on a full-time basis; work activity performed on a part-time basis may also be substantial. It is immaterial that the work activity of an individual may be less, or less responsible, or less gainful, than that in which he was engaged before the onset of his impairment.

2. Sections 404.1520 to 404.1539 are added following § 404.1519. These new sections are to read as follows:

§ 404.1520 Determinations of disability.

(a) *By State agencies.* In any State which has entered into an agreement with the Secretary providing therefor, determinations as to whether an individual is under a disability (as defined in § 404.1501), as to the date disability began, and as to the date disability ceases, shall be made by the State agency or agencies designated in such agreement on behalf of the Secretary with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement.

(b) *By the Bureau.* Determinations as to whether an individual is under a disability, as to the date disability began, and as to the date disability ceases, shall be made by the Bureau on behalf of the Secretary with respect to individuals in any State which has not entered into an agreement, any class or classes of individuals not designated in such an agreement or any individuals outside the United States.

(c) *Review by Bureau of State agency determinations.* The Bureau may review a determination made by a State agency that an individual is under a disability and, as a result of such review, may determine that such individual is not under a disability, or that the disability began on a date later than that determined by the State agency, or that the disability ceased on a date earlier than that determined by the State agency.

§ 404.1521 Initial determinations as to entitlement or termination of entitlement.

After any determination as to whether an individual is under a disability or has ceased to be under a disability, the Bureau will make an initial determination (see § 404.905) with respect to entitlement to a period of disability or to disability insurance benefits or child's insurance benefits for months after attainment of age 18.

§ 404.1522 Reconsideration, hearing and review.

Reconsideration, hearing and review of any initial determination referred to in § 404.1521 may be requested by a party who is dissatisfied with such determination, in accordance with the provisions of Subpart J of this part (see particularly § 404.909 et seq.). A final decision of the Secretary is subject to judicial review upon the filing of a civil action in a United States district court in accordance with section 205(g) of the Act (see § 404.954).

§ 404.1523 Evidence of disability.

An individual who has filed an application for the establishment of a period of disability, disability insurance benefits, or child's insurance benefits for months after attainment of age 18, shall submit medical evidence showing the nature and extent of such individual's impairment or impairments during the time he alleges he was under a disability. Except for cases involving the establishment of a period of disability based on statutory blindness (see § 404.1501 (b) (2)), the applicant shall also submit evidence as to his education and training, work experience and daily activities both prior to and after the alleged date of onset of disability, efforts to engage in gainful employment or self-employment and any other pertinent evidence showing the effect of his impairment or impairments on his ability to engage in any substantial gainful activity during the time he alleges he was under a disability.

§ 404.1524 Medical evidence.

Medical evidence of an individual's mental or physical impairment shall include:

(a) A report signed by a duly licensed physician;

(b) A copy of, or abstract from, the medical records, if any, of a hospital, clinic, institution or sanatorium, or public or private agency, duly certified by the custodian of such record or by any employee of the Social Security Administration or the Veterans' Administration authorized to make certifications of any such evidence (see § 404.701), or any employee of a State agency authorized to make such certifications; or

(c) Other medical evidence of probative value. Medical reports, copies of medical records or other medical evidence submitted to substantiate an allegation that an individual is under a disability shall include pertinent clinical facts, medical history, results and interpretations of any laboratory and diagnostic tests, and treatment and response. Except where the claim is for the establishment of a period of disability based on statutory blindness (see § 404.1501(b)(2)), such evidence shall also describe the individual's capacity to perform significant functions such as the capacity to sit, stand, or move about, travel, handle objects, hear or speak, and, in cases of mental impairment, the ability to reason or to make occupational, personal or social adjustments. The clinical and laboratory findings shall be sufficiently comprehensive and detailed to permit the Secretary to make determinations as to the nature and limiting effects of the individual's physical or mental impairment or impairments for the period in question, his ability to engage in physical and mental activities, and the probable duration of such impairment.

**§ 404.1525 Determinations of disability by nongovernmental organization or other governmental agency.**

The decision of any nongovernmental organization or any other governmental agency that an individual is, or is not, permanently and totally disabled for purposes of any contract, schedule, regulation, or law shall not be determinative of the question of whether or not an individual is under a disability for purposes of title II of the Social Security Act (see § 404.1501 for definition of "disability").

**§ 404.1526 Conclusion by physician regarding individual's disability.**

The function of deciding whether or not an individual is under a disability is the responsibility of the Secretary. A statement by a physician that an individual is, or is not, "disabled," "permanently disabled," "totally disabled," "totally and permanently disabled," "unable to work," or a statement of similar import, being a conclusion upon the ultimate issue to be decided by the Secretary, shall not be determinative of the question of whether or not an individual is under a disability. The weight to be given such physician's statement depends on the extent to which it is supported by specific and complete clinical findings and is consistent with other evidence as to the severity and probable duration of the individual's impairment or impairments.

**§ 404.1527 Consultative examinations.**

Upon reasonable notice of the time and place thereof, any individual alleged to be under a disability shall present himself for and submit to physical or mental examinations or tests, at the expense of the Administration, by a physician or other professional or technical source designated by the Administration or the State agency authorized to make determinations as to disability. If such individual fails or refuses to present himself for any examination or test,

such failure or refusal, unless the Secretary determines that there is good cause therefor, shall be a basis for determining that such individual is not under a disability. Religious or personal scruples against medical examination or test shall not excuse an individual from presenting himself for a medical examination or test.

**§ 404.1528 Evidence of continuation of disability.**

An individual for whom a period of disability has been established or who has been determined to be entitled to disability insurance benefits or to child's insurance benefits for months after attainment of age 18, upon reasonable notice, shall, if requested to do so, present himself for and submit to examinations or tests as provided in § 404.1527, and shall submit medical reports and other evidence necessary for the purposes of determining whether such individual continues to be under a disability.

**§ 404.1529 Place and manner of submitting evidence.**

Evidence in support of an application for the establishment of a period of disability, disability insurance benefits, or child's insurance benefits for months after attainment of age 18, shall be filed in the manner and at the place or places prescribed in Subpart H of this part, or, where appropriate, at the office of a State agency authorized under agreement with the Secretary to make determinations as to disability, or with an employee of such State agency authorized to accept such evidence at a place other than such office.

**§ 404.1530 Failure to submit evidence.**

An individual who fails to submit evidence of disability as required by this subpart shall not be considered to be under a disability. Religious or personal scruples against medical examinations, test, or treatment shall not excuse an individual from submitting evidence of disability.

**§ 404.1531 Responsibility to give notice of event which may effect a change in disability status.**

An individual for whom a period of disability has been established or who is entitled to disability insurance benefits or to child's insurance benefits for months after attainment of age 18, shall notify the Administration promptly if:

- (a) His condition improves;
- (b) He engages in any work activity or there is an increase in the amount of such activity or his earnings therefrom; or
- (c) He has been in a hospital or similar institution and is discharged therefrom.

**§ 404.1532 Evaluation of work activities.**

(a) *In general.* If an individual performed work during any period in which he alleges that he was under a disability as defined in § 404.1501(a) and § 404.1501(b)(1), the work performed may demonstrate that such individual has ability to

engage in substantial gainful activity. If the work performed establishes that the individual is able to engage in substantial gainful activity, he is not under a disability. Work which does not in itself constitute substantial gainful activity, may nevertheless indicate the existence of a residual capacity of such individual to engage in substantial gainful activity. Thus, an individual who utilizes work skills or abilities on a limited basis may not be under a disability if he is capable of increased utilization of such work skills or abilities.

(b) *Nature of the work.* The performance of duties involving skill, experience or responsibility, or contributing substantially to the operation of an enterprise is evidence tending to show that an individual has ability to engage in substantial gainful activity.

(c) *Adequacy of performance.* The adequacy of an individual's performance of assigned work is also evidence as to whether or not he has ability to engage in substantial gainful activity. The satisfactory performance of assignments may demonstrate ability to engage in substantial gainful activity, while an individual's failure, because of his impairment, to perform ordinary or simple tasks satisfactorily without supervision or assistance beyond that usually given other individuals performing similar work, may constitute evidence of an inability to engage in substantial gainful activity. "Made work," that is, work involving the performance of minimal or trifling duties which make little or no demand on the individual and are of little or no utility to his employer, or to the operation of a business, if self-employed, does not demonstrate ability to engage in substantial gainful activity.

(d) *Special employment conditions.* Work performed under special conditions of employment which take account of the employee's impairment (for example, work in a sheltered workshop or in a hospital by a patient) may, nonetheless, provide evidence of skills and abilities that demonstrate an ability to engage in a substantial gainful activity, whether or not such work in itself constitutes substantial gainful activity (see § 404.1534(b) and (c)).

(e) *Activities in carrying on a trade or business.* Supervisory, managerial, advisory or other significant personal services rendered by a self-employed individual generally demonstrate an ability to engage in substantial gainful activity.

**§ 404.1533 Time spent in work.**

If the time that an individual spends in work activities is comparable to the time customarily spent by individuals without impairment in similar work activities as a regular means of livelihood, his ability to work for such periods constitutes evidence tending to show an ability to engage in substantial gainful activity. Moreover, where an individual, because of his impairment, is unable to spend as much time in work activities as is customarily spent by individuals without impairment in similar work, but such individual is able to perform significant duties on a part-time basis, his ability to work on a part-time basis also tends

to show an ability to engage in substantial gainful activity.

**§ 404.1534 Evaluation of earnings from work.**

(a) *General.* Where an individual who claims to be disabled engages in work activities, the amount of his earnings from such activities may be significant in determining whether such activities establish that the individual has the ability to engage in substantial gainful activity. Generally, activities which result in substantial earnings would establish ability to engage in substantial gainful activity; however, the fact that an individual's activities result in earnings which are not substantial does not establish the individual's inability to engage in substantial gainful activity. Where an individual is forced to discontinue his work activities after a short time because his impairment precludes continuing such activities, his earnings would not demonstrate ability to engage in substantial gainful activity. Also a mentally handicapped individual who performs simple tasks subject to close and continuous supervision would not have demonstrated ability to engage in substantial gainful activity solely on the basis of the rate of his remuneration for such activity. Earnings received by an employee which are not attributable to his work activity are not considered in determining his ability to engage in substantial gainful activity. Thus where an individual engages in work activity as an employee under special conditions (see § 404.1532(d)), only earnings attributable to the individual's productivity, as distinguished from a subsidy related to other factors (e.g., his financial needs), are considered in determining his ability to perform substantial gainful activity. The fact, however, that a sheltered workshop or comparable facility may operate at a deficit and receive some charitable contributions or governmental aid would not necessarily establish that a particular employee of the workshop is not earning the amounts paid to him.

(b) *Earnings at a monthly rate in excess of \$100.* An individual's earnings from work activities averaging in excess of \$100 a month shall be deemed to demonstrate his ability to engage in substantial gainful activity in the absence of evidence to the contrary.

(c) *Earnings at a rate of \$50 to \$100 a month.* Where an individual's earnings from work activities average between \$50 and \$100 a month consideration of the amount of his earnings together with the other circumstances relating to his work activities (see § 404.1532 and § 404.1533), the medical evidence relating to his impairment or impairments (see §§ 404.1510-404.1519), and other factors (see § 404.1502) shall determine whether such individual is able to engage in substantial gainful activity. However, in the case of an individual working in a sheltered workshop (such as a workshop especially organized for the blind) or comparable facility, whose activities are limited by his impairment so that his earnings are less

than an average of \$100 a month, such activities and such earnings ordinarily would not establish the ability to engage in substantial gainful activity.

(d) *Earnings at a monthly rate of less than \$50.* Earnings from work activities as an employee which average less than \$50 a month do not show that the individual is able to engage in substantial gainful activity. However, an evaluation of the work performed (see § 404.1532) may establish that the individual is able to engage in substantial gainful activity, regardless of the amount of his average monthly earnings.

(e) *Factors considered where individual is self-employed.* The earnings or losses of a self-employed individual often reflect factors other than the individual's work activities in carrying on his trade or business. For example, a business may have a small income or may even operate at a loss even though the individual performs sufficient work to constitute substantial gainful activity. Thus, less weight is given to such small income or losses in determining a self-employed individual's ability to engage in substantial gainful activity, and greater weight is given to such factors as the extent of his activities and the supervisory, managerial, or advisory services rendered by him (see § 404.1532(e)).

**§ 404.1535 Work prior to October 1960.**

(a) *Work pursuant to approved rehabilitation program.* Regardless of the nature of the work or the amount of his earnings, an individual shall not be considered to be able to engage in substantial gainful activity solely by reason of work performed before October 1, 1960, pursuant to a program for his rehabilitation carried on under a State plan approved under the Vocational Rehabilitation Act (29 U.S.C. 31 et seq.) for a period of 12 consecutive calendar months, beginning with the first month such work began, within any one period of time during which he was under a disability. After the eleventh month following the first month in which an individual performed work pursuant to a program for his rehabilitation carried on under a State plan (whether or not he worked continuously during such 12-month period) any such work shall be considered in determining if such individual is able to engage in substantial gainful activity (see § 404.1538 relating to effect of other evidence of recovery).

(b) *Work not pursuant to rehabilitation program.* Where an individual found to have been under a disability performed work in any month prior to October 1960, other than work pursuant to a rehabilitation program under a State plan in accordance with paragraph (a) of this section, such work generally will not be deemed to establish that the individual had regained ability to engage in substantial gainful activity, unless the work effort of such individual was sustained for a period of not less than 3 months after the month of return to work. If the work effort after such period demonstrates the individual's ability to engage in substantial

gainful activity, the disability shall be determined to have ceased in the fourth calendar month following the month in which the work began.

**§ 404.1536 Period of trial work (after September 1960).**

(a) *General.* Any services rendered after September 1960 by an individual entitled to disability insurance benefits, or child's insurance benefits after attainment of age 18, during a period of trial work shall nevertheless be deemed not to have been rendered, for the purpose of determining whether such individual's disability ceased during such period of trial work. Services rendered within a period of trial work may be considered, however, in determining whether an individual's disability ceased at any time after the expiration of such period of trial work.

(b) *Duration.* A period of trial work for any individual shall begin with the month in which the individual becomes entitled to disability insurance benefits or to child's insurance benefits after attainment of age 18: *Provided,* That such period shall not begin earlier than October 1960, or before the month in which application is filed for such benefits, and shall end with the close of whichever of the following calendar months is the earlier:

(1) The ninth month (whether or not consecutive), beginning on or after the first day of such period, in which the individual renders any services, or

(2) The month in which the individual's disability (as defined in § 404.1501(a)) ceases, as determined without regard to work performed during the period of trial work.

(c) *Meaning of "services."* When used in this section "services" means any activity, even though not substantial gainful activity, which is performed by an individual in employment during a period of trial work for remuneration or gain, or which is determined to be of a type normally performed for remuneration or gain. Work performed without remuneration merely as a therapeutic measure or purely as a matter of training, or work usually performed in daily routine around the home or in self-care, is not considered "services."

**§ 404.1537 Limitation on eligibility to period of trial work.**

(a) *Number of periods of trial work.* An individual is not eligible for more than one period of trial work in any one period of entitlement to disability insurance benefits or child's insurance benefits after attainment of age 18.

(b) *Beneficiary who did not serve waiting period.* An individual determined to be under a disability who becomes entitled to disability insurance benefits after previously having been entitled to such benefits which terminated, or to a period of disability which ceased, within the 60-month period preceding the first month in which he is under such disability, and who therefore is not required to serve a waiting period (see section 223(c)(3) of the Act), shall not be eligible for a period of trial work with respect to such entitlement period.

### § 404.1538 Medical recovery of working individual.

An individual's disability may be found to have ceased at any time within a period of trial work (see § 404.1536), or while the individual is engaged in a type of work activity described above in § 404.1535, if it is determined on the basis of evidence (other than evidence that the individual performed services during such time) that the individual recovered from his physical or mental impairment to the extent that he is no longer prevented by his impairment or impairments from engaging in substantial gainful activity.

### § 404.1539 Cessation of disability.

Where it has been determined that an individual is under a disability as defined in § 404.1501, the "disability" shall be found to have ceased in whichever of the following months is earlier:

(a) The month in which the impairment, as established by the medical or other evidence, is no longer of such severity as to prevent him from engaging in any substantial gainful activity; or

(b) The month in which the individual has regained his ability to engage in substantial gainful activity as demonstrated by work activity after application of the provisions in §§ 404.1535-404.1537; or

(c) Where the individual is requested to furnish necessary medical or other evidence or to present himself for a necessary physical or mental examination by a date specified in the request and the individual fails to comply with such request, the month within which the date for compliance falls, unless the Secretary determines that there is good cause for such failure. Where an individual's entitlement to disability insurance benefits is terminated based on a finding that he has regained his ability to engage in substantial gainful activity, a period of disability established for him will continue if he has a visual impairment sufficiently severe to meet the definition of blindness in § 404.1501(b)(2).

3. *Effective date.* The above amendments shall become effective on the date of publication in the FEDERAL REGISTER.

(Secs. 205, 216, 221, 222, 223, 225, and 1102; 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 405, 416, 421, 422, 423, 425, 1302; sec. 5 of Reorg. Plan No. 1 of 1953, 67 Stat. 18)

[SEAL] W. L. MITCHELL,  
Commissioner of Social Security.

NOVEMBER 18, 1961.

Approved November 20, 1961.

WILBUR J. COHEN,  
Acting Secretary of Health,  
Education, and Welfare.

[F.R. Doc. 61-11183; Filed, Nov. 24, 1961;  
8:49 a.m.]

## Title 21—FOOD AND DRUGS

### Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

#### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

#### PART 121—FOOD ADDITIVES

#### SUBPART D—FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

##### Piperonyl Butoxide; Pyrethrins

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition filed by Fairfield Chemical Division, Food Machinery and Chemical Corporation, Post Office Box 1616, Baltimore 3, Maryland, and other relevant material, has concluded that the following regulations should issue with respect to residues of piperonyl butoxide and pyrethrins in or on milling fractions derived from cereal grains from use of these insecticides in cereal grain mills and storage areas. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), the food additive regulations are amended by adding to Subpart D (21 CFR Part 121) the following new sections:

##### § 121.1074 Piperonyl butoxide.

The food additive piperonyl butoxide may be safely used in accordance with the following prescribed conditions:

(a) It is used or intended for use in combination with pyrethrins for control of insects in cereal grain mills and in milled cereal grain products storage areas.

(b) It is used in combination with pyrethrins, whereby the amount of piperonyl butoxide is equal to 10 times the amount of pyrethrins in the formulation.

(c) A tolerance of 10 parts per million is established for residues of piperonyl butoxide in or on milling fractions derived from cereal grains, when present as a result of its use in cereal grain mills and milled grain products storage areas.

(d) To assure safe use of the additive, its label and labeling shall conform to that registered with the United States Department of Agriculture.

##### § 121.1075 Pyrethrins.

The food additive pyrethrins may be safely used in accordance with the following prescribed conditions:

(a) It is used or intended for use in combination with piperonyl butoxide for the control of insects in cereal grain mills and milled cereal grain products storage areas.

(b) It is used in combination with piperonyl butoxide, whereby the amount

of pyrethrins is equal to 10 percent of the amount of piperonyl butoxide in the formulation.

(c) A tolerance of 1.0 part per million is established for residues of pyrethrins in or on milling fractions derived from cereal grains, when present as a result of its use in cereal grain mills and milled cereal grain products storage areas.

(d) To assure safe use of the additive, its label and labeling shall conform to that registered with the United States Department of Agriculture.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If the hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

*Effective date.* This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(4), 72 Stat. 1786; 21 U.S.C. 348(c)(4))

Dated: November 20, 1961.

JOHN L. HARVEY,  
Deputy Commissioner  
of Food and Drugs.

[F.R. Doc. 61-11179; Filed, Nov. 24, 1961;  
8:48 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

### Chapter I—Bureau of Land Management, Department of the Interior

#### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2435]

[Los Angeles 0170404]

#### CALIFORNIA

#### Modifying Reclamation Withdrawal of October 16, 1931 (Colorado River Storage Project)

##### Correction

In F.R. Doc. 61-6801, appearing at page 6516 of the issue for Thursday, July 20, 1961, the land description should end with the coordinate "NE $\frac{1}{4}$ " instead of "SE $\frac{1}{4}$ ".

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

17 CFR Part 970.1

[A0-255-A1]

## IRISH POTATOES GROWN IN MAINE

### Notice of Recommended Decision and Opportunity to File Written Exceptions With Respect to Proposed Amendments to Marketing Agreement and Order

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, United States Department of Agriculture, of this recommended decision with respect to proposed amendments to Marketing Agreement No. 122 and Order No. 70 (7 CFR Part 970), regulating the handling of Irish potatoes grown in Maine, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674) hereinafter called the "Act."

Interested persons may file exceptions to this recommended decision with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., not later than the close of business on the 15th day after its publication in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

**Preliminary statement.** The public hearing, on the record of which the proposed amendments to the marketing agreement and to the order were formulated, was held at Presque Isle, Maine, on August 4, 1961, pursuant to notice thereof which was published July 28, 1961, in the FEDERAL REGISTER (26 F.R. 6769). Such notice set forth the proposed amendments.

To facilitate reference to the specific documents mentioned in this proceeding, Marketing Agreement No. 122 and Order No. 70 are hereinafter referred to as the "present order," and the proposed amendments thereto are hereinafter referred to as the "proposed order."

**Material issues.** The material issues presented on the record of hearing are as follows:

(1) The amendment of § 970.7 *Handle or ship* to extend its applicability to shipments of potatoes between points outside the production area;

(2) The addition of a new definition of *Committee* § 970.11 which replaces the current definition § 970.11 *Marketing Committee* and § 970.12 *Administrative Committee*;

(3) The amendment of § 970.17 to redefine *Pack*, and the addition of new definitions § 970.19 *Container*, § 970.20 *Label*, and § 970.21 *Maturity*;

(4) The addition of a new § 970.25 *Establishment and membership* to provide for the establishment of the committee as defined in § 970.11;

(5) The amendment of § 970.31 *Nominations* to require that only one nominee be designated for each committee vacancy and to provide that eligible voters may ballot in a manner they choose in selecting these nominees;

(6) The amendment of § 970.39 *Duties* to reflect the change in committee organization as provided in §§ 970.11 and 970.25;

(7) The amendment of § 970.47 *Reserve funds* to authorize the establishment of an operating reserve;

(8) The amendment of §§ 970.50 *Marketing policy* and 970.51 *Recommendation for regulations* to provide for proposed changes in § 970.52;

(9) The amendment of § 970.52 *Issuance of regulations* to provide for the issuance of regulations by markets and the authority for labeling and container regulation and to specifically provide authority for maturity regulations;

(10) The amendment of § 970.53 *Modification, suspension, or termination* to provide for modified regulations under this section for potatoes moving to chippers;

(11) The amendment of § 970.65 *Inspection and certification* to require inspection under this section without regulation under §§ 970.52 or 970.53; to provide flexibility in determining the validity period for inspection certificates under this part; to require that evidence of inspection accompany truck shipments, and that containers may be marked to indicate compliance with inspection requirements;

(12) The amendment of § 970.80 *Reports* to more clearly define the types of reports which may be required under this section, to require reports only from those needed, and to establish a definite period for the retention of records under this section.

**Findings and conclusions.** The findings and conclusions on the material issues, all of which are based upon the evidence adduced at the hearing in the record thereof, are as follows:

(1) The term "handle" as defined in the present order is synonymous with "ship" and means to sell or transport potatoes or cause the sale or transportation of potatoes within the production area or between the production area and any point outside thereof. When the present order was issued in 1954 this definition included the handler activities common at that time, and was found to be adequate for effective administration.

However, upon the basis of evidence introduced at the hearing on the proposed order it is found that (i) operating experiences indicate the definition should be broadened and clarified to include handling activities performed outside the production area, (ii) Maine potatoes which failed to meet regulations

in effect at the time of shipment and which were shipped for special purposes have been diverted to tablestock markets, (iii) under the present definition out-of-production area handlers are not subject to the provisions of the present order, (iv) with the increased importance of processing this practice may be expected to become more common, and (v) unless such potatoes are subject to and meet the requirements of the order they can adversely affect prices received by Maine growers.

Therefore, it is concluded that it is necessary and desirable to expand the definition of "handle" to include handling performed outside the production area under the terms of appropriate rules and regulations which may be recommended by the committee and approved by the Secretary. It is further concluded that such potatoes are in the current of commerce between the production area and their final destination in receiving markets, so certain activities by out-of-production area handlers, which will be specified in the rules and regulations, should be subject to the requirements of the program.

This authority is further necessary in view of the proposed amendments with respect to potatoes for special purposes under the provisions of § 970.53 as hereinafter set forth. Section 970.53 of the proposed order would provide that potatoes for chipping do not necessarily have to be conditioned—i.e., stored under heat—to qualify for special consideration. Testimony at the hearing was to the effect that procedures should be established whereby unconditioned potatoes for chipping but which fail to meet current regulations may be shipped and then conditioned outside of the production area. Unless some authority is retained on such potatoes they could be diverted to tablestock outlets.

Since the present order was originally issued in 1954, potato marketing has changed considerably. New methods of processing and transportation and changes in buying and packing practices have been developed. The manufacture of potato chips, potato flakes, and canning or freezing are examples of either new products or outlets of increased importance. Buyers, brokers, and processors located outside the production area may legitimately buy potatoes for such purposes and then for various reasons they may re-sort such potatoes and sell some in fresh markets or occasionally they will simply divert some shipments directly to the fresh market. Unless such potatoes meet the requirements applicable to potatoes handled within the production area or between the production area and any point outside thereof, they can damage the reputation of the properly graded, sized, and packed Maine potatoes with adverse effects on growers' prices.

Under the present order the shipping point handler can act in good faith and

comply with all regulations, but can be in violation if the receiver diverts the potatoes. Under the proposed order persons handling Maine potatoes outside the production area would be subject to the conditions of the order if they handled such potatoes contrary to the appropriate rules and regulations recommended by the committee and issued by the Secretary governing such shipments. The receiver would have to agree to comply with regulations before potatoes could be shipped under special purpose conditions, and, in turn, will be fully informed and apprised of his responsibilities if he diverts and such potatoes so received.

Provisions of the present order are such that the burden of compliance with regulations rests with the handler within the production area. As mentioned above, the shipping point handler may be in violation for reasons beyond his control. Therefore persons performing handler functions outside the production area should, under rules and regulations issued pursuant to § 970.56, bear the responsibility of a handler under the proposed order. Extension of this authority will tend to promote more orderly marketing and effectuate the declared policy of the act.

(2) The definition of "committee" in the proposed order is to identify the administrative agency responsible for assisting in the administration of the program. "Committee" means the Maine Potato Marketing Committee as authorized by the act and which is necessary and incidental to the operation of the proposed order. The new definition replaces the definitions of § 970.10 *Marketing Committee* and § 970.11 *Administrative Committee* in the present order.

(3) "Pack" should be defined as set forth in the proposed order as a means for establishing a method of regulation and as the basis for distinguishing among the various units in which potatoes are prepared for market and shipped. The term "pack" is commonly used throughout the potato trade and refers to a combination of factors including the grade, size, maturity, and variety of the potatoes together with the size and type of container. For example, a common or usual pack for Maine is a "U.S. No. 1, 2½ minimum-3½ maximum, Katahdin variety, in 10-pound 'poly' bags."

The State of Maine Department of Agriculture has established standards for certain "packs" of potatoes specifying the grade, size, type of container, etc. In order to cooperate with this agency the committee should have authority to use these pack specifications and pack designations in recommending pack regulations.

The development of new potato packs is continuous. Consumer size packages continue to gain in popularity. A recently developed 50-pound box contains potatoes which are sized and hand packed. The definition should cover other developments in packing as they occur in the future. The committee should be able to recommend such pack regulations as will permit taking advantage of any practice or innovation which will tend to improve growers' re-

turns. The particular packs which may be handled should be specified by recommendation of the committee, with approval of the Secretary, and thereby permit the tailoring of particular regulations to particular packs.

"Container" should be defined in the proposed order as a basis for differentiating among the numerous shipping units in which potatoes may move to market outlets, since authority to regulate by type of container is included in the proposed order.

"Label" as defined in the proposed order means the same as it does in the common use of the trade, namely, to mark, brand, or otherwise designate on containers the grade or size or both of the potatoes contained therein.

Under the proposed order, authority is specifically included for regulating by "maturity." Maturity is considered in the United States Standards for Potatoes in terms of the development or condition of the outer skin of the potatoes. The term as defined in the proposed order conforms with the concept in the standards, and should be included to provide a basis for the authority to regulate by maturity.

(4) The present order provides for a marketing committee and for an administrative committee. The marketing committee consists of 20 members and 5 alternates. The administrative committee is selected from members and alternates of the marketing committee, and must have three or more members. Under the proposed order, only one committee, the Maine Potato Marketing Committee, will be established with the same membership as the marketing committee in the present order.

The proposed committee would assume all the functions of the administrative committee in the present order. No change is proposed in the selection, qualification and present distribution of membership by districts for the proposed committee over the current methods used for selecting the marketing committee. Members of the present marketing committee would continue as members of the initial committee under the proposed order. An administrative committee could become the initial subcommittee of the committee.

Testimony at the hearing shows that the dual committee arrangement has caused some misunderstanding within the industry. Also, there is a delay between the organization of the Maine Potato Marketing Committee and appointment of the Maine Potato Administrative Committee. The proposed arrangement of a single committee should result in more effective administration of the order.

(5) The proposed order would amend paragraph (c) of § 970.31 *Nominations*, so only one nominee must be submitted to the Secretary for each vacancy on the committee. Testimony shows that there is some confusion upon the part of nominees with respect to the current nomination procedure of submitting two names for each position. Nominees have been confused by the submission of their names for consideration for appointment and cannot understand

why they are not appointed after being recommended to the Secretary. Also, some qualified persons do not wish to have their names submitted only for consideration with actual appointment going to another, and for that reason do not allow their names to be submitted for nomination. Since the nominee who receives the highest number of votes has always been selected the present procedure serves no useful purpose and should be amended. Several persons are usually nominated for each position, so the procedure of submitting only one name for appointment would not necessarily limit the Secretary in his selection. Therefore, it is found that the provisions of § 970.31 should be amended accordingly.

(6) In the proposed order § 970.39 *Duties* must reflect changes required by the elimination of the administrative committee and marketing committee in the present order and assignment of their duties to the single committee established in the proposed order. All duties currently assigned the administrative committee would be assigned to the new committee but could be reassigned to a subcommittee. The listed duties have proven satisfactory in the present order and should be continued in the proposed order.

(7) Section 970.44 *Refunds* of the present order provides methods for disposing of any excess funds remaining after each fiscal period's expenses have been met. These methods include the crediting of each handler's account with his share of the refund, or by payment to him if demanded. Authority is also included in the present order to set aside some of the excess funds as a reserve for possible liquidation.

Good business practice requires provision for contingencies. The committee should be authorized to set aside some of the funds remaining at the end of each fiscal year after expenses for the period have been met, to be carried over into following periods in a general reserve to be used for operations and for possible liquidation of the affairs of the committee.

The reserve could be built up over a period of years provided it does not exceed approximately one year's operating expenses. This reserve could be used for several purposes. It could be used to allow the committee to function at the beginning of each season prior to the time assessment income is available; to cover any deficits during a fiscal period in which assessment income falls short of expenses; to pay expenses during any period when any or all of the provisions of the order are suspended or are inoperative; or for other expenses authorized under the proposed order.

A reserve fund would be needed in the event of termination, to pay the expenses of winding up committee affairs. Any balance remaining after liquidation should be prorated, to the extent practical, to the persons from whom such funds were collected.

It is concluded, that the revision of § 970.44, authorizing operating reserve as hereinafter set forth, should be incorporated in the proposed order.

(8) The proposed order contains additional authority in § 970.52 and § 970.53 for recommending regulations. The sections relating to marketing policy, § 970.50, and recommendation for regulations, § 970.51, incorporate these changes. Testimony was given that a marketing policy statement has been prepared each season since 1954 under the provisions of § 970.50. In the event the proposed order is adopted, the Committee would need to consider any changes in the present regulating authority when making recommendations for regulations. Likewise, under § 970.51, the Committee should have authority to recommend any regulations authorized in §§ 970.52 and 970.53.

(9) The types and methods of limiting shipments are contained in §§ 970.52 and 970.53 of the proposed order. These should include all the types and methods in the present order together with certain additional types of regulations and the further defining of other types of regulations contained in the present order.

The record of hearing shows that in considering regulations for the 1960-61 season, the marketing committee gave consideration to the recommendation of a regulation which would allow the shipment of a pack of U.S. No. 1 potatoes, 2 to 2½ inches in diameter; however, it was found this pack, especially in a closed container, could not be distinguished from the regular Maine pack (U.S. No. 1, 2¼ to 4 inches in diameter) of the past few seasons. Authority contained in the proposed order requiring containers be labeled as to grade and size would not only serve to permit the pack of smaller sizes to stand on their own merit and avoid being substituted for the standard pack, but would have given additional recognition to the standard Maine pack. Although a large volume of Maine shipments are U.S. No. 1 grade, some shipments for special purposes or under exemption procedures are of a lesser grade and labels could be used to advantage in distinguishing between grades of certain packs.

The use of the State of Maine's Blue, White and Red trademark in place of grade and size should be recognized. State of Maine packs such as "Chefs Specials," which in themselves have grade and size requirements which are recognized by the trade should be authorized. When handlers are authorized to use such labels and trade names the committee should have authority to recognize such as meeting labeling requirements.

Authority to require labeling upon committee recommendations; of containers for Maine potatoes and to establish this as a standard trade practice would help to promote orderly marketing in that consumers would know what they are purchasing and the potatoes of each quality and size would sell for what they are worth. If lower grades and less acceptable sizes of potatoes are labeled for what they are, they would not be confused with the better quality and sizes which in turn would not adversely affect prices received by growers for the more acceptable grades and sizes.

Labeling authority in the proposed order is incidental to, not inconsistent with, and necessary to effectuate its grade, size, and quality regulations. Such authority is not inconsistent with the other provisions of the order. Authority in the proposed order should be flexible enough to permit the committee, with approval of the Secretary, after careful study, to issue such labeling regulations as would be beneficial to producers and handlers of production area potatoes. It is concluded that the labeling provision, as hereinafter set forth, should be authorized in the proposed order.

Provision is included in the proposed marketing order authorizing different regulations for different markets. It was testified that this provision is intended to distinguish only between markets within the production area and those outside. Markets within the production area, particularly for certain processing uses, are close to source of supply and could at times be allowed to take different grade and sizes of potatoes than those outside the production area, or could be relieved from grade and size regulations if it may be practical to do so in terms of administering the program and helping to promote orderly marketing. At the same time, it would be impractical to consider distinguishing between terminal markets outside the production area.

The present order authorized pack regulations. It is found that this authority should be continued under the proposed order based upon the testimony and evidence with respect to the new definition of *Pack* (§ 970.16 of the proposed order). It is further found that because various factors of a pack affect the price received therefor, it is necessary to authorize regulations covering each of the factors making up a pack. Each of the factors has an influence on price. Testimony introduced at the hearing showed that if one factor of a pack was contrary to the original contract or order, the shipment was usually subject to an adjustment which in turn was reflected in the price received by the grower. More emphasis is being placed upon proper grading and packing now than when the present order was originally considered in 1954. Unless each element of packs is regulated so as to promote orderly marketing, pack regulations under the proposed order would be ineffective in attaining the objectives of the act.

The proposed order provides for the committee to recommend, and the Secretary to fix, through rules and regulations, the size, weight, capacity, dimensions, or pack of the containers which may be used in the packaging or handling of potatoes. This is not a particularly disturbing problem at the present time, but if malpractices should develop, such as the use of off-size or deceptive containers, or with respect to the net weights of containers, it is necessary that authority should be available for the committee, with the approval of the Secretary, to correct any abuses which may develop and to prohibit the use of undesirable or deceptive containers.

Maturity is a quality factor and, as such, is included within the authority of the present order. Testimony was offered at the hearing that the authority to regulate specifically by maturity, in terms of skinning classifications should be provided in the proposed order for clarity and so that all parties concerned will know that such regulations will be in accordance with the aforementioned standards.

The present order authorized the Committee to recommend and the Secretary to establish such minimum standards of quality and maturity and such grading and inspection requirements during any or all periods when potato prices reach the equivalent parity as will be in the public interest. Such authority should be contained under the proposed order.

(10) Authority is contained in § 970.53 of the present order for the marketing committee to recommend, and the Secretary to provide, for the modification, termination or suspension of regulations on shipments for manufacture or conversion into specified products. Testimony was offered at the hearing that potatoes for chipping be added to the outlets listed in § 970.53. Potatoes used for chipping require special cultural practices and early harvest which tend to increase the cost of growing a crop for chippers when compared to tablestock. Potatoes which will make satisfactory chips, although they may not meet tablestock grades and sizes, may be of greater value to chippers than potatoes which meet tablestock grades and sizes that fail to chip satisfactorily. Therefore, chippers' requirements for potatoes differ from those for the tablestock market, with chippers being less interested in the outside or external appearance of the potato, but look for internal factors or conditions which will make good chips. Shipments for chipping reduce the total supply of potatoes available for shipment from the production area to the domestic fresh market; and therefore, such shipments tend to increase the value of the crop. Therefore it is concluded that shipments of potatoes for chipping should be included in the outlets considered under § 970.53.

(11) Provisions are included in the present order for requiring inspection whenever the shipments are limited under the provisions of §§ 970.45, 970.52, and 970.53. In the proposed order the committee may recommend, and the Secretary may issue, regulations requiring inspection even when no regulations are in effect under the aforementioned sections. Testimony was given that some committee activities and functions are necessary even when regulations are not in effect. Inspection is necessary so assessments as provided in § 970.45 may be levied equitably upon all handlers. Inspection certificates would also provide a method whereby statistical information would be available to the committee to assist in preparation of, or review of, the marketing policy statement. The Maine Branding Law requires that all potatoes be labeled as to grade. Inspection under this section would permit the committee to cooperate with the State agency in the administration of this law.

Under the provisions of the present order, § 970.65 authorizes the committee to recommend, and the Secretary to issue, rules limiting the period for which inspection certificates may be valid. At the hearing, testimony was offered that this section in the proposed order should provide for the establishment of this period differently by types of carriers (truck vs. rail), types of inspection certificates (standard vs. lot), and for special outlets established under § 970.53. Such requirement is reasonable and necessary. The validity time in the past has been based upon the maximum period necessary on truck shipments. Experience has shown that this period may be too short for rail shipments. In the case of warehouse or lot inspections, a time could be fixed which would allow adequate opportunity for the handling of all inspected potatoes, thereby accommodating handlers and truckers. Or under this provision a longer period of validity could be established for inspection certificates issued in the case of chipping potatoes placed in storage for conditioning and then shipped out of storage at some later date. Conditioned potatoes are subject to shriveling and sprouting, due to conditioning, which makes inspection difficult at the time of shipment. Shipments of such potatoes could be handled under the provision of § 970.56 *Safeguards* under which a system of registering handlers of such shipments may be used to facilitate its provisions.

In the proposed order, the provisions of § 970.65 are amended to require handlers shipping potatoes by truck to provide the trucker with a copy of the applicable inspection certificate for such shipment, and for the trucker to surrender such certificate to those enforcement authorities designated by the committee. This provision is necessary to determine that requirements are being met. It was testified that most handlers are following this practice now, so this requirement is practical and should not impose any extra burden upon handlers.

The committee should be authorized to recommend, and the Secretary to require, that all lots of potatoes inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to each container thereof by the handler thereof, under the direction or supervision of the Federal or Federal-State Inspection Service or the committee. Such identification requirements would result in more efficient and effective administration of the program because compliance problems would be minimized. It would supplement and assist in the administration of the order, particularly if labeling requirements authorized in § 970.52 were in effect. The proposed order should contain such authority.

Other provisions of § 970.65 in the present order would continue unchanged in the proposed order.

(12) Testimony at the hearing supported the proposal for amending § 970.80 *Reports* to provide that reports may be requested of individual handlers rather than all handlers in the production area. In the event reports are needed from

only one handler or small group of handlers, no useful purpose would be served by requesting reports of all handlers in the production area. For example, if a particular section or district was affected by an unusual circumstance, no purpose would be served in requesting reports of the amount of this damage, to assist in preparation of a marketing policy, from all handlers; rather reports from only those handlers affected would be needed. Also, a time limit was established for which handlers must retain records for this part. A period of 2 years following each fiscal period is established as the length of time records should be retained. Paragraph (a) is included to notify handlers of the types of reports which might be requested under this section. Paragraph (b) is included so that handlers will know that information supplied under this section would receive appropriate protection. General provision for these two paragraphs was established in the 1954 hearing record on the present order. The changes contained in the proposed order specify in detail what may be required in the way of reports to make such requirements more readily available and known.

(13) Changes and modifications in drafting some provisions, including changes in reference numbers and cross-references between sections, are necessary to conform the present order with the proposed amendments. These changes are made and the proposed order conforms with them.

*General findings.* Upon the basis of evidence introduced at the hearing and the record thereof it is found that:

(1) The marketing agreement and the order, as both are hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act with respect to potatoes produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such potatoes above the parity level, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such potatoes as will be in the public interest;

(2) The marketing agreement and the order, as both are hereby proposed to be amended, regulate the handling of potatoes grown in the production area in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity

specified in, a marketing order upon which hearings have been held;

(3) The said marketing agreement and the order, as both are hereby proposed to be amended, are limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The said marketing agreement and the order, as both are hereby proposed to be amended, prescribed, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of potatoes grown in the production area; and

(5) All handling of potatoes as defined in this part is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

*Recommended amendments to the marketing agreement and order.* The following proposed amendments to the marketing agreement and the order are recommended as the detailed means by which the aforesaid findings and conclusions may be carried out. For ready reference to all the provisions of the proposed order, an entire order, as amended, is set forth.

#### DEFINITIONS

##### § 970.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

##### § 970.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.).

##### § 970.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

##### § 970.4 Production area.

"Production area" means all territory included within the boundaries of the State of Maine.

##### § 970.5 Potatoes.

"Potatoes" means all varieties of Irish potatoes grown within the production area.

##### § 970.6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes or causes potatoes to be shipped.

##### § 970.7 Ship or handle.

"Ship" or "handle" means to sell or transport potatoes within the produc-

tion area or between the production area, and any point outside thereof, or between points outside the production area.

#### § 970.8 Grading.

"Grading" is synonymous with "preparation for market" and means the sorting or separation of potatoes into grades and sizes for market purposes.

#### § 970.9 Grade and size.

"Grade" means any one of the officially established grades of potatoes and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

(a) The United States Standards for Potatoes issued by the United States Department of Agriculture (§§ 51.1540 to 51.1559 of this title) or amendments thereto, or modification thereof, or variations based thereon;

(b) United States Consumer Standards for Potatoes issued by the United States Department of Agriculture (§§ 51.1575 to 51.1587 of this title) or amendments thereto, or modifications thereof, or variations based thereon;

(c) State of Maine Standards for Potatoes issued by the State of Maine Commissioner of Agriculture, or amendments thereto, or modifications thereof, or variations based thereon.

#### § 970.10 Producer.

"Producer" means any person engaged in the production of potatoes for market.

#### § 970.11 Committee.

"Committee" means the Maine Potato Marketing Committee established pursuant to § 970.25.

#### § 970.12 Fiscal period.

"Fiscal period" means the period beginning and ending on the dates approved by the Secretary pursuant to recommendations by the committee.

#### § 970.13 Varieties.

"Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

#### § 970.14 Seed potatoes.

"Seed potatoes" is synonymous with "seed" and means and includes all potatoes officially certified and tagged, marked or otherwise appropriately identified under the supervision of the official seed potato certifying agency of the State of Maine or other seed certification agencies which the Secretary may recognize.

#### § 970.15 Table stock potatoes.

"Table stock potatoes" is synonymous with "table stock" and means and includes all potatoes not included within the definition of "seed potatoes."

#### § 970.16 Pack.

"Pack" means a quantity of potatoes specified by weight, grade, size, or numerical limits, or by type of container, or any combination of these, recommended by the committee and approved by the Secretary.

#### § 970.17 Export.

"Export" means shipment of potatoes beyond the boundaries of continental United States.

#### § 970.18 District.

"District" means each one of the geographical divisions of the production area initially established pursuant to § 970.28 or as reestablished pursuant to § 970.29.

#### § 970.19 Container.

"Container" means a sack, bag, crate, box, basket, barrel, or bulk load or any other unit used in packaging, transportation, or sale of potatoes.

#### § 970.20 Label.

"Label" means to mark, brand, or otherwise designate on containers the grade or size, or both of potatoes therein.

#### § 970.21 Maturity.

"Maturity" means the stage of development or condition of the outer skin (epidermis) of the potato determined according to skinning classifications defined by the United States Standards for Potatoes (§§ 51.1540 to 51.1559, inclusive, of this title).

### COMMITTEE

#### § 970.25 Establishment and membership.

The Maine Potato Marketing Committee, consisting of 20 members, 15 of whom shall be producers and 5 shall be handlers, is hereby established.

#### § 970.26 Selection.

Committee members shall be selected on the basis of districts as established in §§ 970.28 or 970.29. From each district, three producers shall be selected as committee members and one producer shall be selected as committee alternate. From each district one handler shall be selected as member and one handler shall be selected as alternate.

#### § 970.27 Qualifications for committee membership.

Persons selected as committee members or alternates to represent producers shall be individuals who are producers in the respective district for which selected, or officers or employees of a corporate producer in such district, and such persons shall be residents of the respective district for which selected. Persons selected as committee members or alternates to represent handlers shall be individuals who are handlers in the district for which selected, or officers or employees of a corporate handler, and such persons shall be residents of the district for which selected.

#### § 970.28 Districts.

For the purpose of determining the basis for selecting committee members, the following districts of the production area are hereby initially established:

*District No. 1.* The towns of Hamlin and Cyr, township 17, Range 3, townships 16 and 17, Range 4, townships 14, 15, and 16, Range 5, all townships 14, Ranges 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, and all area north thereof in Aroostook County, in the State of Maine.

*District No. 2.* The towns of Fort Fairfield, Caribou, Washburn, Wade, Perham, Woodland, Limestone, Caswell, Connor, New Sweden, Westmanland and Stockholm in Aroostook County, in the State of Maine.

*District No. 3.* The town of Bridgewater, township D, Range 2, all townships 9, ranges 3, 4, and 5, the town of Oxbow, all townships 9, ranges 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18, and all area north thereof, not included in Districts 1 and 2, in the State of Maine.

*District No. 4.* The towns of Orient, Haynesville and Glenwood, township 2, Range 2, the towns of Silver Ridge and Benedicta, all townships 2, ranges 6, 7, 8, west of the east line of the State 9, 10, 11, 12, townships 2, 3, and 4, Range 13, townships 4 and 5, Range 14, all townships 5, ranges 15, 16, 17, 18, 19, and 20, and all area north thereof, not included in Districts 1, 2, and 3, in the State of Maine.

*District No. 5.* All the remaining counties, towns, and townships in the State of Maine not included in Districts 1, 2, 3, and 4.

#### § 970.29 Redistricting.

The committee may recommend, and pursuant thereto, the Secretary may approve, the apportionment of members among districts, and the re-establishment of districts within the production area. In recommending any such changes the committee shall give consideration to: (a) Shifts in potato acreage within districts and within the production area during recent years; (b) the importance of new production in its relation to existing districts; (c) the equitable relationship of committee membership and districts; (d) economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and (e) other relevant factors. No change in districting or in reapportionment of members within districts may become effective within less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than six months prior to such date.

#### § 970.30 Term of office.

(a) The terms of office shall begin as of July 1 and end as of June 30. The term of office of producer members shall be for three years. The term of office of the producer members of the initial committee shall be so determined by the Secretary that one-third shall be for term of one year, one-third for term of two years, and one-third for term of three years. The term of office of alternate producer members and of handler members and alternates shall be for one year. No producer member and no handler member shall serve for more than three consecutive years.

(b) Committee members and alternates shall serve during the term of office for which they have been selected and have qualified, or during that portion thereof beginning on the date on which they qualify during such term of office and continuing until the end thereof, and until their successors are selected and have qualified.

#### § 970.31 Nomination.

The Secretary may select the committee members and alternates from

nominations which may be made in the following manner:

(a) The committee shall hold or cause to be held prior to May 1 of each year a meeting or meetings of producers in each district and a meeting or meetings of handlers shall be held in the production area to nominate members and alternates for the committee.

(b) In arranging for such meetings the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

(c) At each such meeting at least one nominee shall be designated for each position as member and for each position as alternate member on the committee and eligible voters may ballot to indicate the ranking of their choice for each nominee;

(d) Nominations for committee members and alternates, shall be supplied to the Secretary in such manner and form as he may prescribe, not later than June 1 of each year;

(e) Only producers may participate in designating nominees for producer members and alternates and only handlers may participate in designating nominees for handler members and alternates. Each person who is both a producer and a handler may vote either as a producer or as a handler and he may elect the group in which he votes. In the event a person is engaged in producing or in handling potatoes in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees;

(f) Regardless of the number of districts in which a person produces or handles potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote as aforesaid shall be construed to permit a voter to cast one vote for each position to be filled from the group in the respective district in which he elects to vote.

#### § 970.32 Failure to nominate.

If nominations are not made within the time and in the manner specified in § 970.31, the Secretary may, without regard to nominations, select the committee members and alternates, which selection shall be on the basis of the representation provided for in §§ 970.26 through 970.29, inclusive.

#### § 970.33 Acceptance.

Any person selected as a committee member or alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

#### § 970.34 Vacancies.

To fill committee vacancies, the Secretary may select such members or alternates from unselected nominees on the current nominee list from the district involved, or from nominations made in the manner specified in § 970.31. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be

filled without regard to nominations, which selection shall be made on the basis of the representation provided for in §§ 970.26 through 970.29 inclusive.

#### § 970.35 Alternate members.

In the event any member of the committee is unable to attend a meeting of the committee, the alternate, who was selected from the same district and from the same group as the absent member may act in the place and stead of the absent member. In the event of the death, removal, resignation, or disqualification of a member, a qualified alternate shall act for him until a successor of such member is selected and has qualified.

#### § 970.36 Procedure.

(a) A majority of the members of the committee from each of at least four districts shall be necessary to constitute a quorum and a majority of concurring votes of the entire membership of such committee will be required to pass any motion or approve any committee action.

(b) The committee may provide for meeting by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing; *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

#### § 970.37 Expenses and compensation.

Committee members and alternates shall be reimbursed for expenses necessarily incurred by them in the performance of duties and in the exercise of powers under this part. Committee members and alternates may receive compensation for official services rendered in connection with administration of this part and such compensation shall not be in excess of rates recommended by the committee and approved by the Secretary.

#### § 970.38 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

#### § 970.39 Duties.

It shall be the duty of the committee:

(a) To meet prior to the beginning of the marketing season each year, to organize, to select from among its membership a chairman and such other officers as may be necessary, and to adopt such rules and regulations for the conduct of its business as it may deem advisable.

(b) To prepare a marketing policy;

(c) To recommend marketing regulations to the Secretary;

(d) To recommend rules and procedures for, and to make determinations in connection with, issuance of certificates of privilege or exemptions, or both;

(e) To establish a subcommittee or subcommittees whose duties, assigned by the committee, may include, but shall not be limited to, any of the following duties of the committee;

(f) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies, and to cooperate, and exchange information, in connection with all proper activities and objectives of such committees under this part.

(g) To act as intermediary between the Secretary and any producer or handler;

(h) To furnish to the Secretary such available information as he may request;

(i) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;

(j) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, as may be necessary for administration of this part;

(k) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(l) To make available to producers and handlers committee voting records on recommended regulations and on other matters of policy;

(m) At the beginning of each fiscal period, and as may be requested by the Secretary, to prepare a budget of its expenses and a proposed rate or rates of assessment for such fiscal period, together with a report thereon;

(n) To cause the books of the committee to be audited by a competent accountant at least once each year, and at such other time as such committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of such committee for inspection by producers and handlers; and

(o) To investigate an applicant's claim for exemption under § 970.70.

#### EXPENSES AND ASSESSMENTS

#### § 970.43 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses on the basis of a fiscal period. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of potatoes under regulation handled by the first handler thereof during a fiscal period and the total quantity of potatoes under regulation handled by all handlers as first handlers thereof during such fiscal period.

**§ 970.44 Budget.**

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

**§ 970.45 Assessments.**

(a) The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first ships potatoes shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the agencies' expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information. Such rates may be applied equitably to each pack or unit.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all potatoes which were regulated under this part and which were shipped by the first handler thereof during such fiscal period.

**§ 970.46 Accounting.**

(a) All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member or alternate of the committee he shall account for all receipts, disbursements, funds, and property (including but not being limited to books and other records) pertaining to such committee activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, agency, or person designated by the Secretary, the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other property of the committee during periods when regulations are not in effect and, if the Secretary determines such action

appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

**§ 970.47 Refunds.**

At the end of each fiscal period, if assessments collected are in excess of expenses incurred such excess shall be accounted for as follows:

(a) Except as provided in paragraphs (b) and (c) of this section, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal period unless such person demands repayment thereof, in which event it shall be paid to him. Refunds need not be paid or credited to any handler with outstanding obligations due the committee until his account is settled.

(b) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years an operating monetary reserve in an amount not to exceed approximately one fiscal period's operational expenses. Upon approval of the Secretary, funds in such reserve shall be available for use by the committee for all expenses authorized pursuant to § 970.43.

(c) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

**REGULATIONS****§ 970.50 Marketing policy.**

(a) At the beginning of each season, and as the Secretary may require, the committee shall prepare a marketing policy statement. Such policy statement shall indicate the data on potato supplies and demand on which the committee bases its judgments and recommendations. It shall indicate also the kind or types of regulations contemplated during the ensuing season, and, to the extent practical, shall include recommendations for specific regulations. Notice of such marketing policy shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be submitted to the Secretary and shall be available generally.

(b) Marketing policy statements relating to recommendations for regulations shall give appropriate consideration to potato supplies for the remainder of the season, with special consideration to:

(1) Estimates of total supplies including grade, size, and quality thereof, in the production area;

(2) Estimates of supplies in competing areas;

(3) Market prices by grades, sizes, containers, and packs;

(4) Estimates of supplies of competing commodities;

(5) Anticipated marketing problems;

(6) Level and trend of consumer income; and

(7) Other relevant factors.

**§ 970.51 Recommendations for regulations.**

Upon complying with the requirements of § 970.50, the committee may recommend regulations to the Secretary whenever it finds that such regulations as are provided for in this subpart will tend to effectuate the declared policy of the Act.

**§ 970.52 Issuance of regulations.**

(a) The Secretary shall limit by regulation the handling of potatoes whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the Act.

(b) Such regulations may:

(1) Limit in any or all portions of the production area, the handling of particular grades, sizes, qualities, maturities, or packs, or any combination thereof, of any or all varieties of tablestock or of seed potatoes, or both, during any period; or

(2) Limit the handling of particular grades, sizes, or qualities, of potatoes differently, for different varieties, for tablestock or seed, for different portions of the production area, for different markets, for different packs, for different sizes and types of containers, or for any combination of the foregoing, during any period;

(3) Require that containers for potatoes handled hereunder shall be labeled to show the grade or size, or both, thereof;

(4) Fix the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging or handling of potatoes, or

(5) Limit the handling of potatoes when parity prices have been established, by establishing and maintaining minimum standards of quality and maturity in terms of grades or sizes.

**§ 970.53 Handling for special purposes.**

Upon the basis of recommendation and information submitted by the committee, or other available information, the Secretary shall modify, suspend, or terminate regulations issued pursuant to §§ 970.45, 970.52, 970.53, 970.65, or any combination thereof, in order to facilitate shipments of potatoes for the following purposes whenever he finds that it will tend to effectuate the declared policy of the Act;

(a) For grading or storage within the production area;

(b) For planting within the production area;

(c) For export;

(d) For distribution by the Federal Government;

(e) For manufacture or conversion into specified products;

(f) For charitable purposes;

(g) For livestock feed;

(h) For chipping; and

(i) For other purposes which may be specified.

**§ 970.54 Minimum quantity regulation.**

The committee, with the approval of the Secretary, may establish for any or all portions of the production area, mini-

imum quantities below which shipments will be free from regulations issued pursuant to §§ 970.45, 970.52, 970.53, 970.65, or any combination thereof.

#### § 970.55 Notification of regulation.

The Secretary shall notify the committee of any regulations issued or of any modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

#### § 970.56 Safeguards.

(a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent shipments pursuant to § 970.53 or § 970.54 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards by the committee. Such safeguards may include requirements that:

(1) Handlers shall file applications with the committee to ship potatoes pursuant to §§ 970.53 and 970.54;

(2) Handlers shall obtain inspection provided by § 970.65, or pay the pro rata share of expenses provided by § 970.45, or both, in connection with potato shipments affected under the provisions of § 970.53: *Provided*, That such inspection or payment of expenses may be required at different times than otherwise specified by the aforesaid sections; and

(3) Handlers shall obtain Certificates of Privilege from the committee for shipments of potatoes affected or to be affected under the provisions of §§ 970.53 and 970.54.

(b) The committee may rescind or deny Certificates of Privilege to any shipper if proof is obtained that potatoes shipped by him for the purposes stated in §§ 970.53 and 970.54 were handled contrary to the provisions of this part.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested.

#### INSPECTION

#### § 970.65 Inspection and certification.

(a) During any period in which shipments of potatoes are regulated pursuant to §§ 970.45, 970.52, or 970.53, or any combination thereof, or during any period recommended by the committee and approved by the Secretary, no handler shall ship potatoes unless each such shipment is inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate, except when relieved from such requirements pursuant to § 970.53 or § 970.54, or both.

(b) Regrading, resorting, or repacking any lot of potatoes shall invalidate

any prior inspection certificates insofar as the requirements of this section are concerned. No handler shall ship potatoes after they have been regraded, resorted, repacked, or in any other way further prepared for market, unless each shipment of such potatoes is inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate.

(c) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(d) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(e) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of potatoes by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, which certificate shall be surrendered to such authority as may be designated.

(f) Upon recommendation of the committee, and approval of the Secretary, all potatoes inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the container by the handler under rules to be established by the committee.

#### EXEMPTION

#### § 970.70 Policy.

(a) Any producer whose potatoes have been adversely affected by acts beyond his control or by acts beyond reasonable expectation and who, by reason of any regulation issued pursuant to § 970.52, is prevented from shipping during the season, or a specific portion thereof, as large a proportion of his potato crop as the average proportion shipped or to be shipped during comparable portions of the season by all producers in his immediate area of production, may apply to the committee for exemptions from such regulations for the purpose of obtaining equitable treatment under such regulations.

(b) Any handler who has storage holdings of ungraded potatoes acquired during or immediately following the digging season that have been adversely affected by acts beyond the handler's control or by acts beyond reasonable expectation and who, by reason of any regulation issued pursuant to § 970.52 is prevented from shipping as large a proportion of his storage holdings of ungraded potatoes as the average proportion of ungraded storage holdings shipped by all handlers in said handler's immediate shipping area, may apply to the committee for exemptions from such regulations for the purpose of obtaining equitable treatment under such regulations.

#### § 970.71 Rules and procedures.

The committee may adopt, with approval of the Secretary, the rules and procedures for handling exemptions.

Such rules and procedures should provide for handling applications for exemptions, for issuing certificates of exemption, for committee determinations with respect to areas and averages (as required by § 970.70), and for such other procedures as may be necessary to accomplish policies with respect to exemptions.

#### § 970.72 Applications and issuance.

The committee may issue certificates of exemption to any qualified applicant who furnishes adequate evidence to such committee:

(a) That the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation;

(b) That by reason of regulations issued pursuant to § 970.52 in case of an applicant who is a producer, he will be prevented from shipping as large a proportion of his production as the average proportion of production shipped by all producers in said applicant's immediate area of production during the season, or a specific portion thereof;

(c) That by reason of regulations issued pursuant to § 970.52, in case of an applicant who is a handler who has storage holdings of ungraded potatoes acquired during or immediately following the digging season, he will be prevented from shipping as large a proportion of such storage holdings as the average proportion of similar storage holdings shipped by all handlers in said applicant's immediate shipping area during the season;

(d) Each certificate shall permit the recipient thereof to ship the potatoes described thereon, and evidence of such certificates shall be made available to subsequent handlers thereof.

#### § 970.73 Investigation.

The committee shall be permitted at any time to make a thorough investigation of any applicant's claim pertaining to exemptions.

#### § 970.74 Appeals.

If any applicant for exemption certificate is dissatisfied with the determination with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to such committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

#### § 970.75 Records.

The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of potatoes covered by such

exemption certificates, a record of the amount of potatoes shipped under exemption certificates; a record of appeals for reconsideration of applications, and such other information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

#### MISCELLANEOUS PROVISIONS

##### § 970.80 Reports.

(a) Upon the request of the committee with the approval of the Secretary, handlers shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties under this subpart. The Secretary shall have the right to modify, change, or rescind any requests for reports pursuant to this section.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least two succeeding years such records of the potatoes received, and of potatoes disposed of, by such handler as may be necessary to verify the reports he submits to the committee pursuant to this section.

##### § 970.81 Compliance.

Except as provided in this subpart, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall ship potatoes except in conformity to the provisions of this subpart.

##### § 970.82 Right of the Secretary.

The members of the committee (including successors, and alternates), and any agent or employee appointed or employed by such committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval the disapproved action of the said committees shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

##### § 970.83 Effective time.

The provisions of this subpart shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

##### § 970.84 Termination or suspension.

(a) The Secretary may, at any time, terminate the provisions of this subpart

by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who during the preceding marketing season, have been engaged in the production for market of potatoes: *Provided*, That such majority has, during such period produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced at least 30 days prior to the end of the then current fiscal period.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

##### § 970.85 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart, the members of the committee then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the committee and of all the funds and property then in the possession of or under control of such committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the joint trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims, have been transferred or delivered by the committee, or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of such committees and upon the said trustees.

##### § 970.86 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued pursuant to this subpart or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart or

(c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

##### § 970.87 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

##### § 970.88 Agents.

The Secretary may, by designation in writing, name any person including any officer or employee of the Government, or name any agency in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

##### § 970.89 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

##### § 970.90 Personal liability.

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent except for acts of dishonesty.

##### § 970.91 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

##### § 970.92 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

##### § 970.93 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary all such counterparts shall constitute when taken together, one and the same instrument as if all signatures were contained in one original.<sup>1</sup>

##### § 970.94 Additional parties.

After the effective date of this agreement, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is

<sup>1</sup> Applicable only to the proposed marketing agreement, as amended.

delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.<sup>1</sup>

**§ 970.95 Order with marketing agreement.**

Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of potatoes in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.<sup>1</sup>

Copies of this notice of recommended decision may be procured from the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., or may be there inspected.

Dated: November 20, 1961.

JAMES T. RALPH,  
Assistant Secretary.

[F.R. Doc. 61-11170; Filed, Nov. 24, 1961;  
8:47 a.m.]

**[ 7 CFR Part 1028 ]**

[Docket No. AO-333]

**HANDLING OF GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA**

**Notice of Recommended Decision and Opportunity To File Written Exceptions with Respect to a Proposed Marketing Agreement and Order**

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of grapefruit grown in the Indian River District in Florida, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "act." Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., not later than the close of business of the tenth day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

**Preliminary statement.** The public hearing, on the record of which the proposed marketing agreement and order (hereinafter referred to collectively as the "order") were formulated, was held at Vero Beach, Florida, on August 30 and 31, 1961, pursuant to a notice thereof which was published August 12, 1961, in the FEDERAL REGISTER (26 F.R. 7347, 7778). Such notice set forth a proposed marketing agreement and order which had been presented to the Department of Agriculture by the Indian River

Citrus League, with a petition for a hearing thereon.

**Material issues.** The material issues presented on the record of the hearing are as follows:

(1) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(2) The existence of the right to exercise Federal jurisdiction in this instance;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the persons and transactions to be regulated; and

(5) The specific terms and provisions of the order including:

(a) Definition of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, duties, and operation of a committee for the local administration of the order;

(c) The incurring of expenses and the levying of assessments;

(d) The method for regulating shipments of grapefruit grown in the production area;

(e) The specification of exceptions from regulation of grapefruit handled in certain types of shipments or for certain specified purposes;

(f) The requirement for inspection and certification of grapefruit handled;

(g) The establishment of recordkeeping and reporting requirements for handlers;

(h) The requirement of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(i) Additional terms and conditions as set forth in sections 49 through 57 and published in the FEDERAL REGISTER (26 F.R. 7347) on August 12, 1961, which are common to marketing agreements and orders, and certain other terms and conditions as set forth in sections 58 through 60, and also published in the said issue of the FEDERAL REGISTER, which are common to marketing agreements only.

**Findings and conclusions.** The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) The commercial production of citrus fruits in Florida is confined to that portion of the State which is south and east of the Suwannee River. Within this area, bordering the Atlantic Ocean, is the Indian River District—an area of predominately low, flat land of characteristic hammock soil. Grapefruit grown in the Indian River District has distinctive qualities, tending to be thinskin, flat in shape, and generally less acid than other Florida grapefruit. It also tends to have more tender flesh and outside discoloration is more prevalent than is the case of other Florida grapefruit.

Indian River grapefruit commands a premium price over other grapefruit in fresh market channels. The average on-

tree return to growers for seedless varieties of grapefruit sold in fresh market channels during the 1959-60 season, was \$1.82 per box for Indian River fruit as compared with \$1.05 per box for other Florida grapefruit. This same premium is not realized when grapefruit is marketed in processing outlets. On-tree returns for both Indian River and other Florida grapefruit sold for processing during the 1959-60 season averaged \$0.88 per box. Hence, the Indian River grapefruit industry has looked to the fresh market as its primary market and has sold more than two-thirds of its production in fresh fruit channels.

Production of grapefruit in the Indian River District constitutes less than 25 percent of the total production of grapefruit in Florida. However, approximately 35 percent of the fresh market shipments of all Florida grapefruit are from the Indian River District. About 45 percent of the interstate shipments of Indian River grapefruit are sold at the terminal market auctions and such sales constitute more than 80 percent of all sales of Florida grapefruit by means of these auctions.

The marketing season for Indian River grapefruit usually begins in late September or early October. Fresh fruit shipments are relatively light for the first 3 or 4 weeks. In November, weekly shipments build up to more than 100,000 boxes and continue to increase each week until the Christmas holiday when there is a short period of little market activity. Following this period, demand usually is good as markets replenish stocks and grapefruit reaches its peak of flavor. During the 14- or 15-week period beginning in mid-January and extending late into April the heaviest shipments occur. During this period, all of the crop is mature and is capable of being shipped. Producers are anxious to harvest their grapefruit in order to avoid deterioration in grade and loss of fruit from winds or other factors. Returns to producers for grapefruit sold for processing generally are lower than those received from sales in fresh fruit channels. Producers therefore exert strong pressures upon handlers to ship their fruit to fresh markets as soon as possible.

Late in January, handlers of Indian River grapefruit normally complete the marketing of the early and midseason orange crops available to them and the late maturing Valencia oranges have not reached the maturity or quality to begin the harvesting of the crop. As a consequence, handlers have picking crews which have been harvesting oranges but now cannot be kept busy unless they are assigned to harvesting grapefruit. Similarly, additional facilities which were being used to pack oranges are now available for the packing of grapefruit.

These factors, together with the recurring adverse winter weather in the northern markets which slows the movement of grapefruit into consumption, results in shipments of Indian River grapefruit in excess of the requirements of the then current market demand.

When supplies of Indian River grapefruit are offered for sale in quantities exceeding the requirements of the then current demand, the prices of such

<sup>1</sup> Applicable only to the proposed marketing agreement, as amended.

grapefruit tend to become more directly competitive with other grapefruit grown in Florida and other States. Because of the higher costs incident to the preparation of land for growing grapefruit in the Indian River District and to the required practices in the cultivation and control of insects in established groves, such price levels are substantially below that at which Indian River grapefruit can be profitably marketed.

The authority to limit shipments of Indian River grapefruit to fresh markets each week under a marketing order provides a means to adjust the quantity of fruit shipped to that required in such marketing channels. In addition, such regulations under a marketing order would make readily available information on the quantity of grapefruit to be shipped during a particular week and market receivers would be provided the basis for maintaining their commercial operations in the light of information concerning the rate at which supplies will be available to them. Such conditions would tend to provide more orderly marketing conditions for grapefruit than exist in the absence of some program providing restraint of the volume of grapefruit shipped. Individual handlers cannot successfully bring about such conditions by reducing shipments as other handlers can nullify such action by increasing their shipments.

It is concluded, therefore, that a marketing order is needed to establish orderly marketing conditions for Indian River grapefruit by providing a means of limiting the quantity of such grapefruit that can be shipped in fresh market channels.

(2) Indian River grapefruit is distributed widely within the United States and is exported to Canada and other foreign countries. For many years, the industry marketed nearly all its grapefruit through the terminal market auctions. Ten years ago, more than 85 percent of all interstate shipments of Indian River grapefruit were marketed in this manner. However as the volume of production increased, it became necessary to expand the market area. Handlers established sales departments within their organizations and more than half of all sales of Indian River grapefruit are now made by handlers' own sales personnel.

Markets within the State of Florida are important outlets for Indian River grapefruit. Over 7 percent of the fresh sales of such grapefruit during the 1959-60 season were to intrastate markets—nearly double that of a few years ago. However, it is known that a portion of the grapefruit so marketed by handlers is later transshipped to destinations outside the State. There are wholesalers and chainstore warehouses in Jacksonville and in west Florida which service retail outlets in Georgia and Alabama. Also, it is common practice for truckers to assemble mixed loads of produce, including Indian River grapefruit, in the Jacksonville and west Florida markets and to transport these loads to destinations in the Southeastern States.

Any handling of Indian River grapefruit in fresh market channels exerts a direct influence upon all other handling of such grapefruit in fresh form. It is the primary objective of all handlers of

Indian River grapefruit to obtain the highest possible return for the grapefruit they have for sale. Markets within the State of Florida provide opportunities to dispose of fresh grapefruit the same as markets within any other State. Whenever the price of grapefruit in one market, whether within the State or outside thereof, is higher than that in other markets, supplies tend to be diverted to the market having the highest price.

Should the volume of interstate shipments of Indian River grapefruit be limited while shipments within the State are unrestricted, shipments of grapefruit to firms located in west Florida markets would undoubtedly be increased as the opportunity for these firms to widen their distribution of grapefruit in the Southeastern States would be enhanced. Such increased shipments would be made, ostensibly, for distribution within the State and would be commingled with the normal volume of grapefruit shipped to such area. Under the circumstances, it would be virtually impossible effectively to regulate the volume of interstate shipments without also regulating shipments to west Florida markets.

It is found, therefore, that all handling of Indian River grapefruit is either in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce. Hence, except as hereinafter provided, all handling of grapefruit grown in the Indian River District of Florida should be subject to the authority of the act and of the order.

(3) The term "grapefruit" or "fruit" should be defined in the order to identify the commodity to be regulated thereunder. Such term, as used in the order should include all varieties of the fruit classified botanically as citrus grandis, Osbeck (commonly called grapefruit) grown in the Indian River District. Grapefruit are readily identifiable from other citrus fruits. The term should be limited to the grapefruit grown in the Indian River District inasmuch as the order is to apply only to such grapefruit.

A definition of the term "Indian River District" or "district" should be set forth in the order to delineate the production area in which the grapefruit to be regulated is grown. The boundary of such district should be established as set forth in the notice of hearing. This boundary corresponds with that established for the Indian River citrus fruit production area by the Florida statutes which provide that only citrus fruit grown in the prescribed area may be sold under the name or brand of Indian River Citrus Fruit, and is identical with that of Regulation Area II prescribed in Marketing Order No. 33 (7 CFR Part 933). Also, the Federal Trade Commission has defined the Indian River area in general terms and, in certain instances, issued orders that Florida citrus fruits grown outside such area may not be marketed under an Indian River designation.

The boundary line for the Indian River District, set forth in the notice of hearing, is a natural one geographically. To the east is the Atlantic Ocean and, to

the other sides are areas of swamps, rivers, lakes, and canals. Several miles separate the citrus fruit groves of the Indian River District from those of other citrus producing areas in Florida.

Handlers within the Indian River District handle grapefruit grown in all parts of the district; and this grapefruit is commingled in the process of preparing the fruit for market. It is concluded that, for the purposes of the order, the Indian River District, as hereinafter defined, is the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act.

(4) The term "handler" or "shipper" should be defined in the order to identify the persons who are subject to regulation under the program. Since it is the handling of Indian River grapefruit that is regulated, the term should apply to all persons who place such grapefruit in commerce by performing any of the activities within the scope of the term "handle" as hereinafter described. In other words, any person who is responsible for the sale or transportation of Indian River grapefruit, or who in any other way directly or indirectly places such grapefruit in commerce, should be a handler under the order and be required to carry out such activities in accordance with the order provisions. However, the transportation by a common or contract carrier of grapefruit owned by another person should not be considered as making such carrier a "handler" as, in such instances, the carrier is performing services for hire and is not responsible for the quantity or pack of the commodity. Of course, if the carrier is the owner of the grapefruit being transported, such carrier would be the handler the same as any other person who may primarily be engaged in another business—such as producer or retailer—but at times is also a handler of grapefruit.

The term "handle" should be defined to identify those activities that it is necessary to regulate in order to effectuate the declared policy of the act. Such activities include all phases of selling and transporting which place Indian River grapefruit in the channels of commerce between the "Regulation area," as hereinafter defined, and any point outside thereof in the United States, Canada, or Mexico. The handling of such grapefruit begins at the time the fruit is picked from the trees and includes each of the successive selling and transporting activities until the fruit reaches its final destination. The performance of any one or more of these activities, such as selling (including consignment and delivery), or transporting by any person, either directly or through others, should constitute handling. In order to effectuate the declared policy of the act, each such person should be required, except as hereinafter indicated, to limit such handling of Indian River grapefruit to fruit which conforms to the applicable requirements of the order.

It is usual for grapefruit, after picking, to be sorted, graded, packed, or otherwise prepared for market. Such preparation for market generally is performed

at a packinghouse within the Indian River District. However, it is the practice of a few handlers, who have packinghouses located outside the Indian River District and within the regulation area, to transport limited quantities of Indian River grapefruit to such packinghouses where it is prepared for market. The grower, in such instances, properly relies on the person preparing the grapefruit for market to see that it meets all requirements for marketing. Moreover, such activities, if performed, are preliminary to placing the fruit in marketing channels. It would not be practical, and would unnecessarily complicate the administration of the order, to require persons engaged in the preparation of grapefruit for market to meet the requirements of regulations under the order at any time except after such preparation. Therefore, the movement of grapefruit from the grove where grown to the place within the regulation area where the fruit is to be prepared for market, and activity in connection with such preparation, should not be covered as handling subject to regulation.

While some grapefruit is handled for consumption within the regulation area, most of the transportation of grapefruit within such area is from groves to packinghouses and processing plants or from packinghouses to destinations outside the regulation area. The quantity of grapefruit handled for consumption within the regulation area is small, in relation to the total movement, and the difficulties of enforcing regulations for fruit so marketed would be great. Moreover, it is not necessary that such handling be regulated in order to accomplish the objectives of the program.

The term "handle" should relate to transactions involving only the markets in the United States, Canada, and Mexico. Such markets are considered by handlers of Indian River grapefruit to be one "domestic" market. Methods of shipment to these markets are the same and shipments may readily be diverted from one market destination to another after the grapefruit leaves the regulation area. This situation does not exist in connection with shipments to other—the "export"—markets where transportation is by boat lines and large quantities of grapefruit are usually included in each shipment.

The primary responsibility for determining whether a particular lot of grapefruit conforms to the order requirements should rest with the person who places such lot, or causes it to be placed, in the current of the regulated commerce. In most cases, such person will be the one who was responsible for packing or otherwise preparing the grapefruit for market. However, the fact that grapefruit may have been handled contrary to the order requirements should not excuse a subsequent handler of the fruit from complying with such requirements. Each person who handles grapefruit should be responsible for seeing that all order requirements are met at the time such person handles the fruit.

As all handling of Indian River grapefruit is in interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce, it is concluded that, except as indicated herein and as specifically exempted by the act and order, all such handling should be subject to the order and any regulations issued pursuant thereto.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meanings wherever they are used.

The definitions of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citations for the statute pursuant to which the proposed regulatory program is to be operative and avoids the need for referring to these citations.

The definition of "person" follows the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

The term "fiscal period" should be defined to set forth the period with respect to which financial records of the Indian River Grapefruit Committee—the agency which will administer the program locally—are to be maintained. It is desirable to establish the fiscal period as a 12-month period beginning on the first day of August of each year. Such a period would fix the end of one fiscal period and the beginning of the next at a time of inactivity in the marketing of Indian River grapefruit. This would facilitate fixing the term of office of members and alternates to coincide with such period as it would allow sufficient time prior to the time shipments begin for the committee to organize and develop information necessary to its functioning during the ensuing year, and would still insure that a minimum of expense would be incurred during a fiscal period prior to the time assessment income is available to defray such expenses. However, since the order cannot be effective at the beginning of such period, the initial fiscal period should begin on the effective date of the order. Therefore, it is concluded that such term should be defined as hereinafter set forth.

A definition of "committee" should be incorporated in the order to identify the administrative agency established under the provisions of the program. Such committee is authorized by the act, and the definition thereof, as hereinafter set forth, is merely to avoid the necessity of repeating its full name each time it is referred to.

The term "producer" should be synonymous with "grower" and should be defined to include any person who is engaged, within the Indian River District, in the production of grapefruit for market and who has a proprietary interest therein. A definition of the term grower is necessary for such determinations as eligibility to vote for, and to serve as, a member or alternate member on the Indian River Grapefruit Committee. The term should, therefore, be defined as hereinafter set forth.

The term "standard packed box" should be defined, as hereinafter set forth, to provide a specific unit of measure for purposes of assessment, volume limitations, and handler allotments. Indian River grapefruit is packed in a number of different containers of varying sizes and capacities. The common unit of measure throughout the industry for statistical and other purposes is the standard 1½ bushel box. Hence, the establishment of assessments, regulations, and allotments in terms of a container equivalent to 1½ bushels will have specific meaning to growers, handlers, and others within the industry.

The term "regulation area" should be defined so as to include therein all of the State of Florida that is south and east of the Suwannee River. As indicated heretofore, the movement of Indian River grapefruit for consumption within this area is relatively small while substantial quantities move within this area for processing. Also, a few handlers transport grapefruit from the Indian River District to packinghouses located at other points within this area for the purpose of preparing such grapefruit for market. It would complicate the administration of the order to apply regulations to fruit handled for consumption within the area; and it is not necessary to do so in order to accomplish the purposes of the order.

It is desirable to fix the boundaries of the regulation area so as to coincide with established check points employed by the State in connection with its regulations concerning citrus fruits. A large portion of the shipments of Florida citrus fruits, including Indian River grapefruit, are made by truck and there has been established so-called road guard stations to check truck shipments of citrus fruits and other commodities. These stations are located near the highway crossings of the Suwannee River and on the major roads near the Georgia border leading out of the State that do not cross that river. As all Indian River grapefruit marketed in fresh form is prepared for market within the regulation area, there is already available facilities for checking compliance with the regulations under the order. The exclusion of any portion of the State other than that west of the Suwannee River would increase the number of routes by which grapefruit could move by truck from the regulation area and would correspondingly increase the difficulties and expense of effecting compliance with the order provisions.

The term "central marketing organization" should be defined to identify those organizations which sell Indian

River grapefruit for more than one handler. This term has significance in determining eligibility of persons to serve on the administrative committee as a grower or handler member.

(b) It is desirable to establish an agency to administer the order locally under and pursuant to the act, as an aid to the Secretary in carrying out the declared policy of the act. The term "Indian River Grapefruit Committee" is a proper identification of the agency and reflects the character thereof. It should be composed of 12 members, of whom 6 should represent growers and 6 should represent handlers. Alternate members should be provided to act in the place and stead of the members. Membership and representation on the committee should reflect the situation existing in the growing and marketing of Indian River grapefruit. Nearly all handlers of such grapefruit are also grapefruit growers or organizations of growers. Thus any committee composed of growers and handlers will be closely identified with producer interests. A committee having one-half of its members who are growers who are not handlers, employees of handlers, or of central marketing organizations will assure that the handler interests of its members will not predominate. The handler representation provided will tend to give balance to the committee by providing the handling experience and marketing information necessary to the development of economically sound regulation of grapefruit shipments. One-half of the grower members and one-half of the handler members, and their respective alternates, should be affiliated with cooperative fresh fruit marketing organizations, and the remaining members and their respective alternates should not be so affiliated. Approximately one-half of the Indian River grapefruit crop is marketed by cooperative marketing organizations and such division of the committee membership gives recognition to the institutional structure of the industry.

The term of office of committee members and alternates under the proposed program should be for one year beginning August 1 and ending the last day of July. The establishment of a term of office of one year will provide an orderly procedure for changing the membership of the committee and give growers and handlers an opportunity to express their wishes as to those they desire to serve on the committee each marketing season. The term of office will begin sufficiently in advance of the time shipment of grapefruit commences each season to allow adequate time for the committee to organize and start operating. Since it is possible that the new committee members may not be appointed immediately upon expiration of the term of existing members, or that some may fail to qualify immediately, provision should be made for members to serve on the committee during the portion of the term of office for which they have been selected and have qualified, and until their successors are selected and have qualified.

The three consecutive term limitation on a member's service on the committee, as hereinafter provided, is desirable as

it would encourage more frequent changes in committee membership and tend to insure that some member's position on the committee would not continue indefinitely.

Nominations for members and alternate members of the committee should be made by growers and handlers to assist the Secretary in his selection of the membership of the committee. The nomination of prospective members and alternate members at meetings of growers and handlers, as provided in the order, is a practical method of providing the Secretary with the names of the persons which the industry desires to serve on the committee. The Secretary should have the benefit of the industry's recommendations in respect to committee membership, and should select persons for the member and alternate member positions from such nominations or from other qualified persons.

Nomination meetings for the purpose of electing nominees for members of the committee, and their alternates, should be held not later than July 10 of each year. By having such nomination meetings not later than July 10 each year, nomination lists can be made available to the Secretary prior to the expiration of the terms of office of existing members.

As the order obviously cannot become effective until after the 1961-62 marketing year is underway, the initial nomination meetings should be held as soon as practicable after the effective date of the order.

Nomination meetings and the voting for nominees should be conducted in accordance with such uniform procedures as the Secretary may prescribe. Such meetings should be conducted by a chairman who should announce to all present the names of the persons nominated and the number of votes cast for each. Following the meeting, the chairman and secretary thereof should, within 10 days, transmit to the Secretary complete information concerning the conduct of the meeting and the nomination and election of nominees. This will assure that the meetings are conducted in a uniform and fair manner and that the Secretary and all persons attending the meeting will have complete understanding of the proceedings.

In order that there will be an administrative committee in existence at all times to administer the order at the industry level, the Secretary should be authorized to select committee members and alternates without regard to nomination if, for any reason, nominations are not submitted to him in conformance with the provisions of the order. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the committee will at all times continue as prescribed in the order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. This requirement is necessary so that the Secretary will know whether or not the position has been filled. Such

acceptance should be filed within 10 days after the notification of appointment so that the composition of the committee will not be delayed unduly.

Provision should be made as set forth in the order for the filling of any vacancies on the committee, including selection by the Secretary without regard to nominations where such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee.

The order should provide that an alternate member shall serve in the place of a member of the committee, in appropriate circumstances, in order to help insure full representation at meetings. If any committee member is sick, or otherwise unable to attend a meeting, the alternate member should attend and serve for the member at such meeting. Also, the alternate should take over the duties of the member for whom he is an alternate should the member die, be removed from office, or be disqualified, and should serve in this capacity until a successor to such member has been appointed and has qualified. So that as large a representation as possible will be present at meetings, the order should provide that in the event neither member nor his alternate is able to attend a meeting, the committee may designate any other alternate member who is not acting as a member to serve in such member's place and stead. To the extent practicable, such designation should be made so as to maintain the composition of the committee as prescribed in the order.

The committee should be given those specific powers which are set forth in section 8c(7)(C) of the act. Such powers are necessary to enable an administrative agency of this character to function.

The committee's duties, as set forth in the order, are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by the members of the committee will be confined to those which reasonably are necessary for the committee to carry out its responsibilities as prescribed in the program. It should be recognized that these specified duties are not necessarily all inclusive, and that it may develop that there are other duties which the committee may need to perform.

At least 8 members of the committee, or alternates acting for members, should be present at any meeting of the committee in order for the committee to make any decisions; and each decision or action of the committee should require a minimum of 8 concurring votes. This provision will assure that the actions of the committee will be considered and approved by at least two-thirds of the committee.

It was emphasized at the hearing that the volume of shipments of Indian River grapefruit should not be limited unless such restriction was clearly needed. Such limitations, if imposed during each week throughout the marketing season, probably would be detrimental to the

long run interests of the Indian River grapefruit industry as other producers of grapefruit would tend to increase accordingly their marketings of grapefruit in fresh fruit channels. The proponents of the order proposed, therefore, that the committee be prohibited from considering or recommending such limitations for any week except a week during the January-April period of heavy shipments unless the full complement of committee members, or alternates acting for members, were in attendance at the meeting and concurred in need for regulation. Further, it was proposed that the same requirements be applicable to recommendations for regulation for any week during such period which follows three or more weeks of continuous regulation; and that regulations not be authorized for more than ten weeks of such period. Such proposals are believed to be reasonable in that regulation probably is clearly indicated under the circumstances whenever all members of the committee concur in such action, and the order should, as hereinafter set forth, so provide.

The order should provide for reimbursement of actual out-of-pocket reasonable expenses incurred by members and alternates in carrying out assigned duties under the order. It would not be reasonable to require members or alternates to bear such expenses incurred in the interest of all growers and handlers.

In order for an alternate adequately to serve in place of an absent member, it may be desirable that he should have attended previous meetings along with the member, so as to have a full understanding of all background discussions leading up to action that may be taken at the meeting. Also, an alternate may, in future years, be selected as a member on the committee; and to this extent, attendance at meetings by alternate members could be helpful. Although only committee members, and alternates acting as members, have authority to vote on actions taken by the committee, it is often important for the committee to obtain as wide a representation as practical of grower and handler attitudes toward a proposed regulation or other matter. In addition, as heretofore discussed, certain actions of the committee require 12 concurring votes. If a member should be absent from a meeting without any prior notification that he would not be present, the committee would be precluded from taking any such action at that meeting unless an alternate were available to serve in his place. Therefore, the order should provide that the committee, at its discretion, may request the attendance of alternate members at any or all meetings, notwithstanding the expected or actual presence of the respective members, when a situation so warrants. The same reimbursement of expenses that are available to members should be made available also to alternate members when they are so requested and attend such meetings as alternates.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to

be incurred by it for its maintenance and functioning and to enable it to exercise its power and perform its duties pursuant to the order. The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by the administrative agency established under an order, and requires that each order of this nature contain provisions requiring handlers to pay, pro rata, the necessary expenses.

As his pro rata share of such expenses, each handler who first handles grapefruit during a fiscal period should pay assessments to the committee, at a rate fixed by the Secretary, on all grapefruit so handled. In this way, each handler's total payments of assessments during a fiscal period would be proportionate to the quantity of grapefruit handled by each such handler and assessments would be levied on the same grapefruit only once.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of the income and expenditures necessary for the administration of the order during such period. Each such budget should be submitted to the Secretary with an analysis of its components. Such budget and report should also recommend to the Secretary the rate of assessment believed necessary to secure the income required for that period. The committee, because of its knowledge of the prospective crop, will be in a good position to ascertain the necessary assessment rate and make recommendations in this regard.

The rate of assessment to be applicable during a fiscal year should be fixed by the Secretary on the basis of the recommendation of the committee, or from other available information, so as to assure such assessments are consistent with the act. Such rate should be fixed on a fair and equitable unit basis and in an amount designed to secure sufficient funds to cover the expenses which may be incurred during the fiscal period.

The Secretary should have the authority to increase the assessment rate, at any time during the fiscal period or thereafter, when necessary to obtain sufficient funds to cover the expenses of the committee applicable to such period. Since the act requires that the administrative expenses shall be paid by handlers, this is the only source of income to meet such expenses. The increased assessment rate should be applied to all grapefruit handled during the particular fiscal period so that the total payments by each handler during each fiscal period will be proportionate to the total volume of grapefruit handled during that period. Likewise, should the provisions of the order be suspended, during any portion or all of a fiscal period, it will be necessary to secure funds to cover expenses during such period. The committee will incur expenses each fiscal period even though the order may be inoperative during a particular period. To cease incurring any expenses when operations under

the order were suspended for short periods would tend to increase rather than decrease total expenses as complete liquidation of the committee's affairs would be necessary to eliminate the payment of any salaries, rent, or utilities. Thereafter, when operations were resumed, it would be necessary to hire and train new personnel and new quarters would have to be obtained and outfitted. Such costs probably would exceed the expenses of maintaining an office and a minimum staff during a period of suspension. Moreover, the committee should be in a position to resume its functions at any time conditions are such that a period of suspension of operations should be terminated. Since expenses will not cease when the order is suspended or inoperative for a period, authorization should be provided to require the payment of assessments during such periods.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purposes of the order. The committee should be required, as a matter of good business practice, to maintain books and records clearly reflecting the true, up-to-date operation of its affairs so that its administration could be subject to inspection at any time by the Secretary. The committee should provide the Secretary with periodic reports at appropriate times, such as at the end of each month and each marketing season or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over the committee's activities and operations. Each member and each alternate, as well as employees, agents, or other persons working for or on behalf of the committee, should be required to account for all receipts and disbursements, funds, property, and records for which they are responsible, should the Secretary at any time ask for such an accounting. Also, whenever any person ceases to be a member or alternate of the committee, he should similarly be required to account for all funds, property, and other committee assets for which he is responsible and to deliver such funds, property, and other assets to the committee. Such person should also be required to execute assignments and such other instruments which may be appropriate to vest in the committee the right to all such funds and property and all claims vested in such person. This is a matter of good business practice.

(d) The declared policy of the act is to establish and maintain such orderly marketing conditions for grapefruit, among other commodities, as will tend to establish parity prices therefor, and be in the public interest. The regulation of Indian River grapefruit shipments, as authorized in the order, provides a means of carrying out such policy.

In order to facilitate the operation of the program, the committee should each year, and prior to recommending regulation of grapefruit shipments, prepare and adopt a marketing policy for the ensuing marketing season. A report on such policy should be submitted to the Secretary and made available to growers

and handlers. The policy so established would serve to inform the Secretary and persons in the industry, in advance of the marketing of the crop, of the committee's plans for regulation and the basis therefor. Handlers and growers could then plan their operations in accordance therewith. The policy also would be useful to the committee and the Secretary when specific regulatory actions are being considered, since it would provide basic information necessary to the evaluation of such regulation.

In preparing its marketing policy, the committee should give consideration to the supply and demand factors, herein-after set forth in the order, affecting marketing conditions for grapefruit, since consideration of such factors is essential to the development of an economically sound and practical marketing policy.

The committee should be permitted to revise its marketing policy so as to give appropriate recognition to the latest known conditions when changes in such conditions since the beginning of the season are sufficiently marked to warrant modification of the marketing policy previously adopted. Such action is necessary if the marketing policy is to appropriately reflect the probable regulatory proposals of the committee and be of maximum benefit to all persons concerned. A report of each revised marketing policy should be submitted to the Secretary and made available to growers and handlers, together with the data considered by the committee in making the revision.

The committee should, as the local administrative agency under the order, be authorized to recommend regulations limiting the total quantity of grapefruit which may be shipped during weekly periods whenever such regulation will tend to effectuate the declared policy of the act. It is the key to successful operation of the order that the committee should have such responsibility. The Secretary should look to the committee, as the agency reflecting the thinking of the industry, for its views and recommendations for promoting more orderly marketing conditions and increasing growers' returns for grapefruit. In arriving at its recommendations for regulation, the committee should consider current information with respect to the factors affecting marketing conditions for grapefruit.

The demand for grapefruit varies depending upon the volume of available supplies, the quality of such supplies, the availability of competing commodities, and other factors. It is not possible to anticipate precisely the quantities of grapefruit that may be sold advantageously during a particular week. Consequently, when conditions change so that the then current regulations do not appear to the committee to be carrying out the declared policy of the act, the committees should have the authority to recommend an increase in the quantity of grapefruit which may be handled during the particular week or the suspension or termination of such regulations, whichever the situation warrants. The quantity of grapefruit,

fixed by a regulation, to be shipped during a given week should not be decreased as handlers cannot be expected to reduce shipping schedules after being notified of the quantities of grapefruit that they may individually handle. Moreover, inequities could result if some handlers had already shipped their allotments prior to such a decrease.

The order should authorize the Secretary, on the basis of committee recommendations or other available information, to fix, or increase, the quantity of grapefruit that may be handled during a particular week to help growers to obtain favorable returns through establishment of more orderly marketing conditions for grapefruit. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the committee for consideration, in issuing or amending such regulations as may be necessary to effectuate the declared policy of the act. Also, when he determines that any regulation does not tend to effectuate such policy, he should have authority to suspend or terminate the regulation, in accordance with the requirements of the act.

The order should provide a method for apportioning equitably to handlers the total quantity of grapefruit that may be shipped under regulation during each week such regulations are in effect. The evidence of record shows that such equitable apportionment can be achieved by providing that each handler, who has applied for a portion of the quantity of grapefruit permitted to be shipped, be given an allotment to ship grapefruit based on such handler's past performance in the handling of grapefruit.

As indicated heretofore, shipments of Indian River grapefruit are relatively light during the first month of the marketing season and steadily increase until the Christmas holiday period. During this time, the volume of handlers' shipments may vary considerably in relation to the volume of grapefruit each has available to market because of variations in maturity of the grapefruit, trade outlets, and other factors. During the period beginning with the second week in January and ending with the third week in April, all grapefruit is mature and with the exception of a few handlers who are primarily "gift fruit" shippers and otherwise handle only an occasional lot of grapefruit, all handlers are shipping heavily. It is during this January-April period that the bulk of the Indian River grapefruit crop is marketed and when regulation of the volume of shipments is most likely to be needed. This period is, therefore, a representative one for establishing the prorate base upon which to allocate or prorate to handlers their equitable shares of the limited quantity of grapefruit that may be handled during a particular regulation period.

Production of grapefruit in the Indian River District may be materially affected, from time to time, by freezing temperatures, high winds, and other hazards. Reduction in the marketable portion of the crop from such causes may not affect all handlers equally. Therefore, the

prorate base of handlers should be computed by using the average weekly shipments of each such handler during the three preceding seasons. This will tend to offset the inequities that might occur if only the shipments of one year were used.

From time to time, handlers may enter the business of handling Indian River grapefruit for the first time. Provision should be made in the order, therefore, so that such new handlers could participate in the handling of grapefruit during regulation periods. The determination of a proper and equitable prorate base for a new handler should take into consideration prior shipments of grapefruit, if any, during unregulated periods, the capacity of the handler's packinghouse facilities, quantity of grapefruit under contract and any other factor having a bearing on the handler's expected volume of shipments of grapefruit. It was testified that each season all persons who handle Florida citrus fruits are required by State laws to have a valid license and post a bond prior to handling such fruit. Such bond is in varying amounts directly related to the quantity of fruit which the handler states he will ship during the season. This is one factor which, taken with the others set forth in the order, would assist in establishing an appropriate prorate base for a new handler.

Even though a person may previously have handled grapefruit, if he did not handle grapefruit in the season preceding that in which the prorate bases of handlers are being computed, he should be considered a new handler. Any person in such position would undoubtedly have disposed of his former handling business and would be reentering the business of handling grapefruit. Under such circumstances, he should be treated the same as anyone who had not previously handled grapefruit.

The order should provide that each handler who desires to handle grapefruit during regulated periods should make application to the committee for a prorate base and allotments. Such application is necessary in order that the committee will have knowledge of the handlers for whom the prorate bases and allotments are to be computed. Each such application should be supported by such information and substantiated in such manner as the committee may require. In most instances, such information probably would include only a certification as to past shipments of grapefruit which can readily be checked against records of the Florida State Inspection Service. However, for some handlers located outside the district, it may be that such records will not disclose the Indian River grapefruit shipments of the handler but only the total shipments of all grapefruit. Also, a new handler usually would have no record of past grapefruit shipments. It is necessary, therefore, that the committee have authority to require such information as may be necessary in order to assure that the allotments computed for individual handlers are appropriate.

The committee should check the accuracy of the information submitted

with the application for a prorated base and allotments and correct any error, omission, or inaccuracy in such information; and the person submitting the information should be given an opportunity to discuss with the committee the factors considered in making the correction. Only in this manner can the determination of correct allotments to individual handlers be assured.

Whenever volume regulation is likely to be recommended by the committee, it should compute the prorated base of each person who has applied for a prorated base and allotments and should notify the Secretary and each person of his prorated base. Also, if volume regulation is recommended and the Secretary fixes the total quantity of grapefruit that may be handled during a particular week, the committee shall determine the individual handler's allotments. Each such allotment shall be determined by multiplying the total quantity fixed by the Secretary by the percentage which each handler's prorated base is of the aggregate of the prorated bases of all handlers. Thus a handler's allotment to ship grapefruit during a regulation week will be equal in relation to other handlers, subject to adjustment for new handlers, to the relationship between his average shipments of grapefruit during the preceding three marketing seasons in the January-April period to those of all other handlers. The committee should make these computations and provide reasonable notice to each such person of the allotment so computed for him as the committee, by reason of its intimate knowledge of the industry, is in the best position to perform this function.

The order should contain provisions permitting, to the extent practicable, flexibility in handler activities under the program regulations. Such flexibility can be provided by authorizing the overshipment and undershipment of allotments and allotment loans between individual handlers.

During any week that a handler has had an allotment computed for him by the committee, such handler should be permitted to handle, in addition to the total allotment available to him, a quantity of grapefruit equal to 10 percent of such total allotment, or 500 boxes, whichever is the greater. Such provision would permit a handler to conduct his business in an orderly fashion since he could fulfill orders or complete carlot quantities to the extent of the permitted overshipment even though his available allotment does not equal such orders. This limitation on the amount of overshipment allowed is necessary to assure that the quantity fixed by the Secretary for the particular week is not exceeded by more than a reasonable amount. Also, any such overshipment by a handler should be deducted from such handler's allotment for the next succeeding week so that shipments by a handler under regulation does not exceed his fair share.

Similarly, provision should be made to permit a handler who has handled a quantity of grapefruit less than the total allotment available to him for the particular week to handle during the following

week an additional quantity of grapefruit equal to such undershipment provided such undershipment does not exceed 50 percent of the allotment available to such handler during the week of undershipment. This provision for, in effect, carrying forward allotment that has not been used is desirable and is needed because at times weather or other conditions do not permit a handler to ship all of his allotment. The limitation on the amount of undershipment privilege allowed is also desirable as it will tend to cause handlers to endeavor to use their allotments or lend them to others. The proponents testified that it was as important to assure that approximately the entire quantity fixed by the Secretary would be shipped as it was to guard against excessive overshipments as, otherwise, shipping opportunity may be lost. It was admitted that it was uncertain at this time what percentage of the total undershipments should be carried forward and that the correct quantity would have to be ascertained on the basis of experience. The order should, therefore, provide that this percentage could be changed by the committee with the approval of the Secretary.

Provision should be made for the lending and borrowing of allotment to enable handlers who have allotment in excess of that which they want to use and those who desire to ship more grapefruit than their allotment would permit to adjust their operations accordingly. The committee must, of course, have knowledge of all allotment loan transactions so that they can determine whether handlers' shipments of grapefruit are in compliance with the order provisions. Also, it can serve a useful function by assisting handlers in the making of allotment loans. Some handlers may at times have allotment in excess of the quantity they desire to use but do not have knowledge of anyone who desires to borrow allotment. At the same time, other handlers may want to borrow allotment but do not know of anyone with allotment available to loan. Also, if the unsupervised loaning and borrowing of allotment were permitted, loan agreements would undoubtedly be entered into under which the borrowing handler would be unable to repay the loan since the allotment he would receive the following week would be insufficient for such payment. Without committee assistance the loaning and borrowing of allotment probably would become very restricted. The order should, therefore, provide that all loan agreements shall be subject to the prior approval of the committee and each loan agreement shall provide for repayment during the following week. It is not necessary to provide for any later repayment of allotment loans since a subsequent loan can be entered into between the parties concerned if both agree. Loan transactions consummated by the committee should be confirmed by the committee in writing to the parties concerned so that there will be no question concerning the terms of the loan agreement.

(e) The order should provide for the exemption from its provisions of such

handling of grapefruit which it is not necessary to regulate in order to effectuate the declared purposes of the act. Insofar as practicable, such exempted handling should be stated explicitly in the order so that handlers will have knowledge of such handling as is not subject to the provisions of the program.

Grapefruit which are handled by parcel post, for consumption by charitable institutions, for distribution by relief agencies, or for commercial processing into canned or frozen products or a beverage base have little influence on the level of prices for grapefruit sold for fresh consumption in the domestic markets. Hence, grapefruit handled for such purposes should be exempted from compliance with the regulations issued under the order.

In addition, provision should be made to authorize the committee, with the approval of the Secretary, to exempt the handling of grapefruit, in such specified small quantities, or types of shipments, or shipments made for such specified purposes as it is not necessary to regulate in order to effectuate the declared purposes of the act. Such authorization is necessary to enable the exemption of such handling as may be found not feasible administratively to regulate and which does not materially affect marketing conditions in commercial channels. It would be impractical to set forth these exemptions in detail in the order, because to do so would destroy the flexibility which is necessary to reflect conditions affecting the handling of grapefruit. Therefore, it should be discretionary with the committee, subject to the approval of the Secretary, whether small quantities or types of shipments, or shipments made for specified purposes, should be exempted from regulation, inspection, and assessments, and the period during which such exemptions should be in effect.

The allowance of such exemptions may be found to result in avenues of escape from regulation which, if they are found to exist, should be closed. Hence, the committee should be authorized to prescribe, with the approval of the Secretary, such rules, regulations, and safeguards as are necessary to prevent grapefruit handled for any of the exempted purposes from entering into regulated channels of trade and thereby tend to defeat the objective of the program. For example, should it be found that a portion of the grapefruit moving to commercial processors was being diverted to fresh fruit markets, it may be necessary for the committee to establish procedures to govern the movement of fruit for processing even though such grapefruit do not have to comply with other requirements of the order. These procedures might include such requirements as filing applications for authorization to move grapefruit in exempted channels and certification by the receiver that such grapefruit would be used only for the purpose indicated, if it is found that such requirements are necessary to the effective enforcement of the program regulations.

(f) Provision should be made in the order requiring all grapefruit handled,

whenever regulations are effective, to be inspected by the Federal or Federal-State Inspection Service and certified as meeting the applicable requirements of such regulation. The requirement of inspection and certification of all grapefruit subject to regulation is needed to provide evidence of compliance with the regulations in effect. Handlers are familiar with the Federal and Federal-State Inspection Services and with the procedures for inspection and certification of grapefruit in the production area. All grapefruit is required under State laws and by Federal Marketing Order No. 33 (7 CFR Part 933) to be inspected by such service. It was testified by a representative of the service that no additional cost would accrue by reason of the inspection requirement in the order as only the one inspection would be performed to meet the requirements of all such programs. The certification as to meeting the requirements of the regulations means that the inspector has obtained a statement from the handler that the particular lot of grapefruit inspected is covered by allotment. This is desirable as it will provide evidence that the handler was aware that allotment was needed in order to handle such grapefruit.

After the first handler of a lot of grapefruit has had such lot inspected and certified as meeting the applicable regulations, subsequent handlers would be permitted to handle such fruit without incurring the expense of another inspection. However, should it develop that the first handler has not complied with such inspection requirements, this should not excuse the later handler or handlers from complying with the inspection and certification requirements.

(g) The committee should have the authority to require that handlers keep such records and submit to the committee such reports and information as may be needed to perform such agency's functions under the order. It is anticipated that much of the information needed by the committee in order to carry out its functions can be obtained from copies of shipping manifests. However, prompt reports of over and undershipments of allotment will be necessary in order for the committee to advise the handlers of the allotment each has available for use during a particular week. Under a program of this nature, it would be practically impossible to anticipate every type of report or kind of information which the committee may find necessary in the conduct of its operations under the order. Therefore, the committee should have the authority to request, with the approval of the Secretary, reports and information, as needed and at such times and in such manner as may be necessary.

The Secretary should retain the right to approve, change, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports.

(h) Except as provided in the order, no handler should be permitted to handle grapefruit, the handling of which is prohibited pursuant to the order; and no

handler should be permitted to handle grapefruit except in conformity with the order. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(i) The provisions of §§ 1028.67 through 1028.75, as hereinafter set forth, are similar to those which are included in other marketing agreements and orders now operating. The provisions of §§ 1028.80 through 1028.82, as hereinafter set forth, also are included in other marketing agreements now operating. All such provisions are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the recommended marketing agreement and order and to effectuate the declared policy of the act. Testimony at the hearing supports the inclusion of each such provision.

Those provisions which are applicable to both the proposed marketing agreement and the proposed order, identified by section number and heading, are as follows: § 1028.67 *Right of the Secretary*; § 1028.68 *Effective time*; § 1028.69 *Termination*; § 1028.70 *Proceedings after termination*; § 1028.71 *Duration of immunities*; § 1028.72 *Agents*; § 1028.73 *Derogation*; § 1028.74 *Personal liability*; and § 1028.75 *Separability*.

Those provisions which are applicable to the proposed marketing agreement only, identified by section number and heading, are as follows: § 1028.80 *Counterparts*; § 1028.81 *Additional parties*; and § 1028.82 *Order with marketing agreement*.

*Rulings on proposed findings and conclusions.* September 15, 1961, was set by the Presiding Officer at the hearing as the latest date by which briefs would have to be filed by interested parties with respect to facts presented in evidence at the hearing and the conclusions which should be drawn therefrom. No such brief was filed.

*General findings.* Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The marketing agreement and order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said marketing agreement and order regulate the handling of grapefruit grown in the Indian River District in Florida in same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

(3) The said marketing agreement and order are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the Indian River District in Florida which make necessary different terms and provisions applicable to different parts of such area;

(5) All handling of grapefruit grown in the Indian River District, as defined in said marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

*Recommended marketing agreement and order.* The following marketing agreement and order<sup>1</sup> are recommended as the detailed means by which the foregoing conclusions may be carried out.

#### DEFINITIONS

##### § 1028.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

##### § 1028.2 Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

##### § 1028.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

##### § 1028.4 Fruit or grapefruit.

"Fruit" or "grapefruit" means any or all varieties of *Citrus grandis*, Osbeck, grown in the Indian River District.

##### § 1028.5 Producer or grower.

"Producer" is synonymous with "grower" and means any person who is engaged in the production for market of grapefruit in the Indian River District and who has a proprietary interest in the grapefruit so produced.

##### § 1028.6 Handler or shipper.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier transporting grapefruit for another person) who, as owner, agent, or otherwise, handles grapefruit in fresh form, or causes grapefruit to be handled.

##### § 1028.7 Handle or ship.

"Handle" or "ship" means to sell or transport grapefruit, or in any other way to place grapefruit, in the current of commerce between the regulation area and any point outside thereof in the United States, Canada, or Mexico.

##### § 1028.8 Standard packed box.

"Standard packed box" means a unit of measure equivalent to one and three-fifths (1 $\frac{3}{5}$ ) United States bushels of grapefruit, whether in bulk or in any container.

<sup>1</sup>The provisions identified with asterisks (\*\*\*) apply only to the proposed marketing agreement and not to the proposed order.

**§ 1028.9 Fiscal period.**

"Fiscal period" means the period of time from August 1 of any year until July 31 of the following year, both dates inclusive: *Provided*, That the initial fiscal period shall begin on the effective date of this part.

**§ 1028.10 Committee.**

"Committee" means Indian River Grapefruit Committee.

**§ 1028.11 Central marketing organization.**

"Central marketing organization" means any organization which markets grapefruit for more than one handler pursuant to a written contract between such organization and each such handler.

**§ 1028.12 Regulation area.**

"Regulation area" means that portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico.

**§ 1028.13 Indian River District or district.**

"Indian River District" or "district" means that part of the State of Florida particularly described as follows: Beginning at a point on the shore of the Atlantic Ocean where the line between Flagler and Volusia Counties intersects said shore, thence follow the line between said two counties to the southwest corner of Section 23, Township 14 South, Range 31 East; thence continue south to the southwest corner of Section 35, Township 14 South, Range 31, East; thence east to the northwest corner of Township 18 South, Range 32 East; thence south to the southwest corner of Township 17 South, Range 32 East; thence east to the northwest corner of Township 18 South, Range 33 East, thence south to the St. Johns River; thence along the main channel of the St. Johns River and through Lake Harney, Lake Poinsett, Lake Winder, Lake Washington, Sawgrass Lake, and Lake Helen Blazes to the range line between Ranges 35 East and 36 East; thence south to the south line of Brevard County; thence east to the line between Ranges 36 East and 37 East; thence south to the southwest corner of St. Lucie County; thence east to the line between Ranges 39 East and 40 East; thence south to the south line of Martin County; thence east to the line between Ranges 40 East and 41 East; thence south to the West Palm Beach Canal (also known as the Okeechobee Canal); thence follow said canal eastward to the mouth thereof; thence east to the shore of the Atlantic Ocean; thence northerly along the shore of the Atlantic Ocean to the point of beginning.

**ADMINISTRATIVE BODY****§ 1028.20 Establishment and membership.**

There is hereby established an Indian River Grapefruit Committee consisting of twelve members, each of whom shall have an alternate who shall be nominated and selected in the same manner, and who shall have the same qualifica-

tions, as the member for whom each is an alternate. Six of the members and their respective alternates shall be growers who shall not be handlers, or employees of handlers, or employees of central marketing organizations. Six of the members and their respective alternates shall be handlers, or employees of handlers, or employees of central marketing organizations.

**§ 1028.21 Term of office.**

The term of office of members and alternate members shall begin on the first day of August and continue for one year. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their successors are selected and have qualified. The consecutive terms of office of a member shall be limited to three terms. The terms of office of alternate members shall not be so limited.

**§ 1028.22 Nomination of grower members for the Indian River Grapefruit Committee.**

(a) The Secretary shall give public notice of a meeting or meetings of producers to be held not later than July 10th of each year, for the purpose of making nominations for grower members and alternate members of the committee: *Provided*, That the initial nomination meeting or meetings shall be held as soon as practicable following the effective date of this part.

(b) The Secretary shall prescribe uniform rules to govern such meeting or meetings and the balloting thereat. The chairman of each meeting shall publicly announce at such meeting the names of the persons nominated and the total number of votes cast for each, and the chairman and secretary of each such meeting shall transmit to the Secretary their certificate as to the number of votes so cast, the names of the persons nominated, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July, except that the nomination made for membership on the initial committee shall be so submitted within 10 days after the close of the nomination meetings.

**§ 1028.23 Selection of grower members of the Indian River Grapefruit Committee.**

From the nominations made pursuant to § 1028.22, or from other qualified persons, the Secretary shall select six members and six alternate members of the committee. Three such members and their alternates shall be affiliated with bona fide cooperative fresh fruit marketing organizations, and three such members and their alternates shall not be so affiliated.

**§ 1028.24 Nomination of handler members for the Indian River Grapefruit Committee.**

(a) The Secretary shall give public notice of meetings of handlers to be held not later than July 10th of each year, for the purpose of making nominations for handler members and alternate members

of the committee: *Provided*, That the initial nomination meetings shall be held as soon as practicable following the effective date of this part. Separate meetings shall be held for bona fide cooperative marketing organizations and for other handlers.

(b) The Secretary shall prescribe uniform rules to govern such meetings and the balloting thereat. In voting for nominees each handler shall be entitled to cast but one vote, which shall be weighted by the volume of fruit shipped by such handler during the then current fiscal period: *Provided*, That each such vote cast at the meetings to nominate the initial members and alternate members shall be weighted by the volume of fruit handled by such handler during the preceding fiscal period. The chairman of each meeting shall publicly announce at such meeting the names of the persons nominated and the total number of votes cast for each, and the chairman and secretary of each such meeting shall transmit to the Secretary their certificate as to the number of votes so cast, the names of the persons nominated, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July, except that the nominations made for membership on the initial committee shall be so submitted within 10 days after the close of the nomination meetings.

**§ 1028.25 Selection of handler members of the Indian River Grapefruit Committee.**

From the nominations made pursuant to § 1028.24, or from other qualified persons, the Secretary shall select six members and six alternate members of the committee. Three such members and their alternates shall be affiliated with bona fide cooperative fresh fruit marketing organizations, and three such members and their alternates shall not be so affiliated.

**§ 1028.26 Failure to nominate.**

In the event nominations for a member or an alternate member of the committee are not made pursuant to the provisions of § 1028.22 or § 1028.24 the Secretary may select such member or alternate member without regard to nominations.

**§ 1028.27 Acceptance of membership.**

Any person selected by the Secretary as a member or alternate member of the committee shall qualify by filing a written acceptance with the Secretary within 10 days after being notified of such selection.

**§ 1028.28 Inability of members to serve.**

(a) An alternate for a member of the committee shall act in the place and stead of such member (1) in his absence, or (2) in the event of his removal, resignation, disqualification, or death, and until a successor for his unexpired term has been selected.

(b) In the event of the death, removal, resignation, or disqualification of any person selected by the Secretary as a member or an alternate member of the committee, a successor for the unexpired

term of such person shall be selected by the Secretary. Such selection may be made without regard to the provisions of this subpart as to nominations.

#### § 1028.29 Powers of the Indian River Grapefruit Committee.

The committee, in addition to the power to administer the terms and provisions of this subpart, as herein specifically provided, shall have power (a) to make, only to the extent specifically permitted by the provisions contained in this subpart, administrative rules and regulations; (b) to receive, investigate and report to the Secretary complaints of violations of this subpart; and (c) to recommend to the Secretary amendments to this subpart.

#### § 1028.30 Duties of the Indian River Grapefruit Committee.

It shall be the duty of the committee: (a) To select a chairman from its membership, and to select such other officers and adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To keep minutes, books, and records which will clearly reflect all of its acts and transactions, which minutes, books, and records shall at all times be subject to the examination of the Secretary;

(c) To act as intermediary between the Secretary and producers and handlers;

(d) To furnish the Secretary with such available information as he may request;

(e) To appoint such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

(f) To cause its books to be audited by one or more certified or registered public accountants at least once for each fiscal period, and at such other times as it deems necessary or as the Secretary may request, and to file with the Secretary copies of all audit reports;

(g) To prepare and publicly issue a monthly statement of financial operations of the committee; and

(h) To provide an adequate system for determining the total crop of grapefruit, and to make such determinations, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this subpart.

#### § 1028.31 Compensation and expenses of committee members.

The members and alternate members of the committee shall serve without compensation but may be reimbursed for expenses necessarily incurred by them in attending committee meetings and in the performance of their duties under this subpart.

#### § 1028.32 Procedure of committee.

(a) Except as provided in paragraph (b) of this section, eight members of the committee shall constitute a quorum and any decision or action of the committee shall require at least eight concurring votes.

(b) For any decision or recommendation with respect to regulations to be effective during any calendar week ex-

cept a week during the period beginning with and including the second full calendar week in January and ending with and including the third full calendar week in April, twelve members shall constitute a quorum and twelve concurring votes shall be required. The same quorum and voting requirements shall be necessary to make a recommendation for regulation for any week immediately following three or more continuous weeks of regulation. The requirements of this paragraph shall not apply to recommendations to amend an existing regulation.

(c) The votes of each member cast for or against any recommendations made pursuant to this subpart, shall be duly recorded. Each member must vote in person.

(d) In the event any member of the committee and his alternate are not present at any meeting of the committee, any alternate for any other member selected by a majority of the committee present, may serve in the place and stead of the absent member and his alternate: *Provided*, That, to the extent practical, the representation provided in §§ 1028.23 and 1028.25 shall be maintained.

(e) The committee shall give to the Secretary the same notice of meetings of the committee as is given to the members thereof.

#### § 1028.33 Funds.

(a) All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes herein specified and shall be accounted for in the manner provided in this subpart.

(b) The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the terms of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds, together with all books and records in his possession, to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this subpart.

#### EXPENSES AND ASSESSMENTS

##### § 1028.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and necessary to carry out the functions of the committee under this subpart during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as provided in § 1028.41.

##### § 1028.41 Assessments.

(a) Each handler who first handles fruit shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred by such committee for its maintenance and functioning during each fiscal period. Each such

handler's share of such expenses shall be that proportion thereof, which the total quantity of fruit shipped by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of fruit so shipped by all handlers during the same fiscal period. The Secretary shall fix the rate of assessment per standard packed box of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) At any time during or after the fiscal period, the Secretary may increase the rate of assessment so that the sum of money collected pursuant to the provisions of this section shall be adequate to cover the said expenses. Such increase shall be applicable to all fruit shipped during the given fiscal period. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

#### § 1028.42 Handler's accounts.

If, at the end of a fiscal period, it shall be determined that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period unless he demands payment of the sum due him, in which case such sum shall be paid to him.

#### REGULATION

##### § 1028.45 Marketing policy.

(a) Prior to the first recommendation for regulation during any marketing season, the committee shall submit to the Secretary its marketing policy for such season. Such marketing policy shall contain the following information: (1) The estimated available crop of grapefruit in the district, including estimated quality; (2) the estimated utilization of the crop that will be marketed in domestic, export, and byproduct channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments of grapefruit, during the ensuing season; (4) the available supplies of competitive deciduous fruits in all producing areas of the United States; (5) level and trend in consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of grapefruit. In the event that it becomes advisable substantially to modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy.

(b) All meetings of the committee held for the purpose of formulating such marketing policies shall be open to growers and handlers.

(c) The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary and to each grower and handler who files a request therefor. Copies of all such reports shall be maintained in the office of the committee where they shall be

available for examination by growers and handlers.

**§ 1028.46 Recommendations for volume regulation.**

(a) The committee may, during any week, recommend to the Secretary the total quantity of grapefruit which it deems advisable to be handled during the next succeeding week: *Provided*, That such regulations shall not be recommended during the period beginning with and including the second full calendar week in January and ending with and including the third full calendar week in April after regulations during such period have limited the volume of grapefruit handled during 10 weeks.

(b) In making its recommendations, the committee shall give due consideration to the following factors: (1) Market prices for grapefruit; (2) supply of grapefruit on track at, and en route to, the principal markets; (3) supply, maturity, and condition of grapefruit in the production area; (4) market prices and supplies of citrus fruits from competitive producing areas, and supplies of other competitive fruits; (5) trend and level in consumer income; and (6) other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to § 1028.47, has fixed the quantity of grapefruit which may be handled, the committee may recommend to the Secretary that such quantity be increased for such week. Each such recommendation, together with the committee's reason for such recommendation, shall be submitted promptly to the Secretary.

**§ 1028.47 Issuance of volume regulation.**

Whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of grapefruit which may be handled during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided*, That such regulations shall not, in the aggregate, limit the volume of grapefruit shipments during more than 10 weeks of the period beginning with and including the second full calendar week in January and ending with and including the third full calendar week in April. The quantity so fixed for any week may be increased by the Secretary at any time during such week. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation at any time.

**§ 1028.48 Prorate bases.**

(a) Each person who desires to handle grapefruit, shall submit to the committee, at such time and in such manner as may be designated by the committee, and upon forms made available by it, a written application for a prorate base and for allotments as provided in this section and § 1028.49.

(b) Such application shall be substantiated in such manner and shall be supported by such information as the committee may require.

(c) The committee shall determine the accuracy of the information sub-

mitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction.

(d) Each week during the marketing season when volume regulation is likely to be recommended, the committee shall compute a prorate base for each person who has made application in accordance with the provisions of this section. Such prorate base for each handler shall, except as provided in paragraph (e) of this section, be the average weekly quantity of grapefruit shipped by him in all of the weeks in the period beginning with and including the second full calendar week in January and ending with and including the third full calendar week in April during the immediately preceding three marketing seasons.

(e) If an applicant for a prorate base is a new handler, the committee shall compute a prorate base based upon his prior shipments of grapefruit, if any, packinghouse facilities, grapefruit under contract, trade outlets, and other factors which, in the judgment of the committee, are relevant and proper to be used in arriving at an equitable prorate base for such handler. Any person who has made no shipments of grapefruit in the season immediately preceding the season for which prorate bases are established shall be considered a new handler.

**§ 1028.49 Allotments.**

Whenever the Secretary has fixed the quantity of grapefruit which may be handled during any week, the committee shall calculate the quantity of grapefruit which may be handled during such week by each person who has applied for a prorate base. Such quantity shall be the allotment of such person and shall be that portion of the total quantity fixed by the Secretary which, expressed in terms of percent, is equal to the percentage that such applicant's prorate base is of the aggregate of the prorate bases of all such applicants. The committee shall give reasonable notice to each person of the allotment computed for him pursuant to this section.

**§ 1028.50 Overshipments.**

During any week for which the Secretary has fixed the total quantity of grapefruit which may be handled, any person who has received an allotment may handle, in addition to the total allotment available to him for use during such week, an amount of grapefruit equivalent to 10 percent of such total allotment, or 500 boxes, whichever is greater. The quantity of grapefruit so handled in excess of the total allotment which such person had available for use during such week (but not exceeding an amount equivalent to the excess shipments permitted under this section) shall be deducted from such person's allotment for the next week. If such person's allotment for such week is in an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted

from succeeding weekly allotments issued to such person until such excess has been entirely offset: *Provided*, That at any time there is no volume regulation in effect it shall be deemed to cancel all requirements to undership allotments because of previous overshipments pursuant to this part.

**§ 1028.51 Undershipments.**

If any person handles during any week a quantity of grapefruit, covered by a regulation issued pursuant to § 1028.47, in an amount less than the total allotment available to him for such week, he may handle, during the next succeeding week, a quantity of grapefruit, in addition to that permitted by the allotment available to him for such week, equivalent to such undershipment or 50 percent of the allotment issued to him for the week during which the undershipment was made, whichever is the lesser: *Provided*, That the committee, with the approval of the Secretary, may increase or decrease such percentage.

**§ 1028.52 Allotment loans.**

(a) A person to whom allotments have been issued may lend such allotments to other persons to whom allotments have also been issued. Each party to any such loan agreement shall, prior to completion of the agreement, notify the committee of the proposed loan and obtain the committee's approval of the agreement. Each such agreement shall specify that such loan is to be repaid from the borrower's allotment the next succeeding week or, if such borrower's allotment for such week is insufficient to repay all of such loan, that he will repay the balance of such loan as soon thereafter as he has allotment available to him.

(b) The committee may act on behalf of persons desiring to arrange allotment loans. In each case, the committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned, which memorandum shall be deemed to satisfy the requirements of paragraph (a) of this section as to an approval of the loan agreement.

**§ 1028.53 Inspection and certification.**

Whenever the handling of grapefruit is regulated pursuant to § 1028.47, each handler who handles any grapefruit shall, prior to the handling of any lot of grapefruit, cause such lot to be inspected by the Federal or Federal-State Inspection Service and certified by it as meeting all applicable requirements of such regulation: *Provided*, That such inspection and certification shall not be required if the particular lot of fruit previously had been so inspected and certified.

**REPORTS**

**§ 1028.60 Reports.**

Upon request of the committee, made with approval of the Secretary, each handler shall maintain such records and furnish to the committee, in such manner and at such time as it may prescribe, reports of overshipments and undershipments and such other reports and information as may be necessary for the

committee to perform its duties under this part.

#### MISCELLANEOUS PROVISIONS

##### § 1028.65 Fruit not subject to regulation.

Except as otherwise provided in this section, any person may, without regard to the provisions of §§ 1028.47 through 1028.53 and the regulations issued thereunder, ship grapefruit for the following purposes: (a) To a charitable institution for consumption by such institution; (b) to a relief agency for distribution by such agency; (c) to a commercial processor for conversion by such processor into canned or frozen products or into a beverage base; (d) by parcel post; and (e) in such minimum quantities, types of shipments, or for such purposes as the committee with the approval of the Secretary may specify. No assessment shall be levied on fruit so shipped. The committee shall, with the approval of the Secretary, prescribe such rules, regulations, or safeguards as it may deem necessary to prevent grapefruit handled under the provisions of this section from entering channels of trade for other than the purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications with the committee for authorization to handle grapefruit pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the grapefruit will not be used for any purpose not authorized by this section.

##### § 1028.66 Compliance.

Except as provided in this part, no person shall handle grapefruit during any week in which a regulation issued by the Secretary pursuant to § 1028.47 is in effect, unless such grapefruit are, or have been, handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such grapefruit under the provisions of this part; and no person shall handle grapefruit except in conformity with the provisions of this part and the regulations issued under this part.

##### § 1028.67 Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

##### § 1028.68 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in § 1028.69.

##### § 1028.69 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary shall terminate the provisions of this part at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal period, have been engaged in the production for market of fruit: *Provided*, That such majority have, during such period, produced for market more than 50 percent of the volume of such fruit produced for market, but such termination shall be effective only if announced on or before July 31 of the then current fiscal period.

(c) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

##### § 1028.70 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of the same committee, of all the funds and property then in the possession of or under control of such administrative committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees (1) shall continue in such capacity until discharge by the Secretary; (2) shall, from time to time, account for all receipts and disbursements, or deliver all property on hand, together with all books and records of the committee and of the joint trustees, to such person as the Secretary may direct; and (3) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee, or the joint trustees pursuant to this part.

(c) Any funds collected pursuant to § 1028.41, over and above the amounts necessary to meet outstanding obligations and expenses necessarily incurred during the operation of this part and during the liquidation period, shall be returned to handlers as soon as practicable after the termination of this part. The refund to each handler shall be represented by the excess of the amount paid by him over and above his pro rata share of the expenses.

(d) Any person to whom funds, or claims have been transferred or delivered by the committee, or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon the said joint trustees.

##### § 1028.71 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

##### § 1028.72 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

##### § 1028.73 Derogation.

Nothing contained in this part is, or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

##### § 1028.74 Personal liability.

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

##### § 1028.75 Separability.

If any provision of this part is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

##### § 1028.80 Counterparts.

This agreement may be executed in multiple counterparts and, when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. \* \* \*

##### § 1028.81 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. \* \* \*

##### § 1028.82 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of grapefruit in the same manner as is provided for in this agreement. \* \* \*

JAMES T. RALPH,  
Assistant Secretary.

NOVEMBER 20, 1961.

[F.R. Doc. 61-11171; Filed, Nov. 24, 1961; 8:47 a.m.]

# **Agricultural Stabilization and Conservation Service**

## **[ 7 CFR Part 975 ]**

[Docket No. AO-179-A21]

### **MILK IN NORTHEASTERN OHIO MARKETING AREA**

#### **Decision on Proposed Amendments to Tentative Marketing Agreement and to Order**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Cleveland, Ohio, on June 13-15, 1961, pursuant to notice thereof issued on May 16, 1961 (26 F.R. 4370).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary of Agriculture on September 22, 1961 (26 F.R. 9084; F.R. Doc. 61-9259) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

1. Expanding the marketing area;
2. Revising pool plant requirements;
3. The classification of certain milk products and the method of accounting for nonfat solids added to or contained in "fortified" and/or "dietary" milk products;
4. Allocating transfers of fluid milk products to nonpool plants;
5. The method of determining minimum prices; the use of a "Louisville plan" in distribution of returns to producers; and the pricing of producer milk f.o.b. the farm; and
6. Revising the rate of location adjustments to handlers and producers and the addition of Ashtabula as a basing point.

**Findings and conclusions.** The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The marketing area should not be enlarged.

Expansion of the marketing area to include all of Tuscarawas County, Ohio, and the cities of Coshocton in Coshocton County and Wooster in Wayne County, Ohio, is not warranted on the basis of this record.

No evidence was offered in support of the proposal to include the city of Coshocton in Coshocton County. Therefore, no action is taken on this proposal.

Proponents failed to show the need to add the city of Wooster in Wayne County and the county of Tuscarawas to the marketing area. The evidence with respect to disorderly marketing was inconclusive. It was alleged that unregulated handlers bought milk from dairy farmers at the blend price paid by regulated handlers rather than on a classified basis. The evidence did not show, however, that unregulated handlers

thereby purchase milk for Class I use at a lesser price than regulated handlers since it was shown that at least some unregulated plants utilized large amounts of milk purchased from dairy farmers for manufacturing purposes.

It is impossible from the evidence available to demonstrate that regulated handlers are placed at a competitive disadvantage in the proposed area because of the buying practices of unregulated handlers. The distribution of fluid milk products on routes by regulated handlers in the area proposed to be added has continued to expand for some time past. Although sales in the city of Wooster and Tuscarawas County by regulated handler are increasing, unregulated handlers continue to distribute more than half of the fluid milk products disposed of there.

Dairy farmers delivering to the plants of unregulated handlers are not members of any of the cooperative associations now qualified under the order. These dairy farmers did, however, voice their opposition, both individually and through the bargaining cooperative association which represents a number of them, to the expansion of the marketing area. No dairy farmer supplying milk to the unregulated plants appeared in support of the proposed expansion. It is concluded that the evidence is not persuasive of the existence of disorderly marketing conditions in the area proposed and the marketing area, therefore, should not be expanded on the basis of this record.

2. No change should be made in the requirements that a supply plant must meet to obtain pool status. The standards with respect to surplus disposal plants operated by cooperative associations whose member milk is delivered to distributing plants, however, should be modified.

The present order requires that to maintain pool status a supply plant must ship to distributing plants an amount equal to 30 percent or more of its receipts from dairy farmers during the current month or during any period of consecutive months ending with the current month. It was proposed that the provision be changed to require a shipment of at least 30 percent of such receipts during each month. The need for more stringent performance standards on the part of supply plants was not demonstrated. It is not clear from the evidence what supply plants, if any, would be affected or what effect such a change would have on the existing supply. Moreover, the present provision has not caused unstable marketing conditions. For these reasons there is no need to modify the present performance standards for supply plants.

It was proposed that a plant operated by a cooperative association be pooled if, during the immediately preceding six-month period, one-half of its member producers' milk had been delivered to the pool plants of other handlers instead of two-thirds as presently required. The order now provides that a plant operated by a cooperative association which handles excess supplies for the market under certain specified conditions shall remain as a pool plant even though it does not

meet the requirements fixed for a supply plant. The primary function of a standby plant operated by a cooperative association is to balance the supply of milk at the distributing plants by supplying milk to these plants when it is needed for fluid use and by handling the milk produced in excess of the market's requirements during the flush production season and on weekends.

It is necessary to establish standards for such plants which will require their continuing to function as sources of supply for the market while insuring that the member producers of such association may maintain their status as producers under the order when their milk is received at a standby plant during periods of flush production.

Cooperative associations handle most of the market's reserve supply. It has been the general practice of the cooperative associations to direct to the distributing plants as much milk as was needed for the fluid uses of the market and to divert the remainder to surplus milk processing plants. Most of the milk produced for the market in excess of the fluid requirements is handled by cooperative associations.

The shift to bulk tanks has caused a considerable dislocation of producers in some portions of the marketing area. Many plants have discontinued the receipt of milk in cans. This has deprived many nearby producers of their normal outlet for milk. The burden of handling this milk which has lost its market has fallen on the cooperative associations who receive it in their plants and either deliver it to handlers in bulk or dispose of it in manufactured dairy products. During this period of readjustment and changing procurement practices, producers whose milk is delivered to the plants of cooperative associations should not lose their right to participate in the marketwide pool.

Under current marketing conditions, therefore, requirements of qualification of a standby plant operated by a cooperative association should be modified to require that during the preceding six-month period, one-half rather than two-thirds of the producer milk of the association, exclusive of that delivered to other supply plants but including amounts transferred to distributing plants, be received at the pool distributing plants of other handlers.

3. The classification provisions should be revised to specifically include "dietary milk products" in Class I and milk shake mixes in Class III. It should be provided further that fluid milk products which are fortified by the addition of nonfat solids shall be Class I to the extent of the actual volume of the finished product, while the skim milk equivalent of the added solids shall be classified as Class III. No change should be made in the definition of Class II products.

The several proposals to modify the Class II and Class III classifications or to combine them into a single classification are not justified on the record except for those changes which are specifically recommended herein. Exceptions were taken to the recommended decision for the failure to reclassify cottage cheese from Class II to Class III.

A thorough analysis of this problem is contained in the decision of the Assistant Secretary of Agriculture, dated April 21, 1955 (20 F.R. 2801). In that decision it was concluded that although pricing cottage cheese in the same category as other manufactured dairy products might improve the position of handlers in their competition with cottage cheese brokers, the combination of a lower price and the lack of location adjustments would seriously affect competitive relationships between regulated handlers in the manufacture and distribution of cottage cheese. Based on the findings and conclusions of that decision the present classification and pricing of milk used in cottage cheese were incorporated in Order No. 75.

The competitive relationship with respect to the manufacture and distribution of cottage cheese, particularly that existing between city plant and country plant manufacture, is today essentially the same as it was when the aforesaid decision was made. In the absence of a showing of any substantial change in marketing conditions affecting the movement of milk or skim milk for the production of cottage cheese, the present classification and pricing should be continued.

A handler stated that he is considering the distribution to the retail trade of a product to be known as "milk shake mix". This item will be produced by adding nonfat solids, malt, flavoring, and perhaps additional butterfat, to whole milk. Exceptions to the recommended decision pointed out that even though the health regulations are such that milk shake mix produced by a handler regulated under this order is required de facto to be manufactured from Grade A milk, companies manufacturing only ice cream, ice cream mix (including milk shake mix) and other frozen desserts are not required to make such products under the Grade A standards required for fluid milk products.

It was further pointed out that the formulas for such milk shake mixes are so similar to those for ice milk mixes and mixes for other soft frozen desserts that it would be impossible to distinguish between them on the basis of the ingredients contained therein. Neither does the size of the container nor the method of packaging afford sufficient basis for distinguishing these products, since soft frozen dessert mixes are regularly packaged in containers identical to those used for milk and milk drinks for delivery to establishments having small counter freezers.

After further consideration of the record evidence and the exceptions it is therefore concluded that milk shake mixes should be classified in Class III.

"Dietary milk products" should be designated specifically as a fluid milk product and classified as a Class I item. Hitherto, they have been classified as Class I because they were considered to fall within the designation of flavored milk drinks.

The order, however, should no longer continue to price as Class I all the water originally associated with the solids which are added to "fortified" fluid milk products including milk shake mixes and

"dietary milk products". It was not demonstrated that under the current marketing conditions the water associated with the solids used in fortification displaces producer milk in Class I in this market. To maintain proper accounting for such items as "fortified" fluid milk products and "dietary milk products", the nonfat solids added to such items should be converted to their skim milk equivalent and an amount equal to the difference between the skim milk equivalent of such fortified products and the actual weight of the product disposed of in fluid form should be classified as Class III. The skim milk equivalent of nonfat solids used in these products would likewise be considered a receipt of other source milk. Through the allocation procedure in the order any additional charge for the water which had been removed thus would be eliminated. In the case of reconstituted items produced by the addition of water to previously concentrated nonfat solids, the handler would continue to be charged for the actual volume of products disposed of, including the water which had been added.

Nonfat solids used in manufacturing cottage cheese should continue to be accounted for on their skim milk equivalent. It was stated that such solids were added in the making of cottage cheese for the purpose of increasing the palatability of the product and that, therefore, such solids should be treated the same as solids added to fortified fluid milk products. While it is true that nonfat solids may be added to the skim milk used to produce cottage cheese to improve the palatability and the texture, particularly if the skim is naturally low in solids content, yet the addition of such solids increases the yield of cottage cheese practically in direct proportion to the amount of solids which are added. It is a common practice among plants having a limited vat capacity to add a high percentage of solids to the skim used in the cottage cheese making for the purpose of increasing the amount of cottage cheese obtainable from each batch of skim milk. Under such circumstances it can only be concluded that the use of nonfat solids in the manufacture of cottage cheese more nearly resembles reconstitution than fortification and does displace producer milk. Therefore, nonfat solids used in the manufacture of cottage cheese should continue to be accounted for in terms of their skim milk equivalent.

4. Allocation of transfers of fluid milk products to nonpool plants should be revised.

The order now permits transfers to nonpool plants within 265 miles of the Public Square in Cleveland to be classified in any class claimed if there is an equivalent volume of milk used in such class in the nonpool plant. Under this provision it is possible for a nonpool plant to purchase producer milk from the Northeastern Ohio market and dispose of it all as Grade A fluid milk in Class I yet have that milk accounted for as Class III under the order, if the nonpool plant has utilized an equivalent amount of milk (manufacturing grade or otherwise) in the manufacture of

Class III products. Such a situation could result in disorderly marketing.

Producers under the Northeastern Ohio order are entitled to the Class I price for their milk when it is disposed of for Class I utilization. At the same time producer milk disposed of to a nonpool plant, and which may be surplus to the market's needs, should not be given priority of classification in the nonpool plant over Grade A milk received in such plant from dairy farmers who are its regular and continuing source of supply. To give priority to producer milk in such circumstances would be unfair to the dairy farmers who have assumed the burden of supplying such nonpool plant with its Grade A requirements, and would also make it difficult to dispose of excess milk to nonpool plants which have Class I disposition.

The order should provide that in assigning classification in the nonpool plant priority for Class I disposition should be assigned to the Grade A milk of the "dairy farmers" who supply milk to such plant. If Class I disposition exceeds such Grade A receipts from dairy farmers, the remaining Class I sales should be assigned to the milk transferred from the Northeastern Ohio market. If milk is received at the nonpool plant from more than one pool plant or from other plants which are pool plants under other orders, any Class I disposition in excess of the nonpool plant's Grade A receipts from dairy farmers should be prorated among the receipts from all the plants which are pool plants under this or other Federal marketing orders.

5. The basic formula should be revised and the Class I price should be announced currently. No change should be made, however, in either the Class I differential or the method of distributing returns to producers.

The Class I price should be determined by using the basic formula price for the preceding month rather than the current month. This will permit the Class I price to be announced by the 6th day of the current month so that handlers and producers may know the price of Class I milk early in the month in which the milk is marketed. Such a modification will not change, on an annual basis, the price of Class I milk to either handlers or producers. The advance knowledge with respect to the Class I price should be conducive to better management on the part of handlers and producers and, thus, will lend itself to stability in marketing conditions. Accordingly, the following order provisions have been modified. The duties of the market administrator are now revised to require the announcement of the Class I price and the Class I butterfat differential, both for the current month, on or before the 6th day of each month. In determining the Class I price the existing differentials should be added to the basic formula price for the preceding month, and the standard utilization percentages used in determining the amount of the supply-demand adjustment will now be determined on the basis of the second and third preceding months rather than the two immediately preceding months.

The paying price of midwest condenseries is one of the two alternative methods now used in the order to determine the value of milk used for manufacturing. Seven plants located in Wisconsin and two plants located in Michigan currently make up the total number of condenseries now reporting. Originally prices were received from 18 plants but nine of them have now ceased operating, three of them since the order was last revised. The names of these plants should be stricken from the list.

It was suggested by handlers that, because of the small number of condenseries reporting, their prices might not be representative of the prices generally paid for milk by condenseries. They proposed that the condenser pay price be deleted from the order and that the average price paid for milk by manufacturing plants in Minnesota and Wisconsin be used in its stead. The Department has had under consideration for a considerable period of time the use of this price series which is determined from reports filed monthly with the Statistical Reporting Service, United States Department of Agriculture by a large number of manufacturing plants located in the States of Minnesota and Wisconsin.

The operators of these plants report the total pounds and the butterfat content of the manufacturing grade milk received from dairy farmers, and the total dollars paid to dairy farmers for such milk at their plants. The Department is now publishing a price that represents the weighted average value of the milk purchased from dairy farmers by these plants for manufacturing purposes. This price is available on a current month basis and is announced so that the market administrator may make the necessary determination of class prices on or before the 6th day of the month. This price is announced at the average test of the milk as delivered to the manufacturing plants.

Although the Department has been publishing information on prices for the States of Minnesota and Wisconsin separately for some time it only recently began publishing on an advanced time basis a price series of average prices paid for manufacturing milk for the two states combined. The data already available, however, demonstrate that the Minnesota-Wisconsin price series will be an excellent index of the value of milk for manufacturing purposes. Accordingly, it has been substituted herein for the midwest condenser price in the Class III pricing formula.

It should not be adopted at this time, however, as a basis for pricing Class I milk in the Northeastern Ohio market. Because of the desirability of maintaining a close relationship between Class I prices in neighboring markets, the substitution of the new price series for the midwestern condenser price should be deferred until consideration can be given to making it effective simultaneously in all the markets in a region.

The level of the Class I price and the present scheme of seasonal prices should be maintained. The proposals made by handlers would maintain the present

Class I price level but would remove the seasonality in the Class I prices. Handlers pointed out that as a result of negotiated premiums they have been paying a Class I price that is relatively stable throughout the year. Therefore, they argue that the order should provide a constant differential of \$1.65 per hundredweight for each month to be added to the basic formula price.

Handlers recognized the fact that the order must provide some seasonal incentive to producers so that they will be encouraged to level the seasonality in the production of their herds. Handlers would meet this situation by introducing into the order what is often referred to as the "Louisville plan". Under this proposal 25 cents per hundredweight would be deducted from the blend price for each of the months of April, May, and June and the monies so deducted would be added back during the months of September, October, and November. No analysis was presented of the amount by which such a proposal would affect producer prices in relation to existing prices, or of the effect that it would have in leveling out production in comparison with the present seasonal pricing plan or the eligible-ineligible milk plan which was recently terminated.

Producer groups were unanimously opposed to the adoption of the "Louisville plan" as a means of distributing returns to producers. Recognizing that some incentive must be provided to encourage producers to decrease the present seasonality of production of their herds producer groups advocated that the present seasonal pricing plan be retained. Although the "Louisville plan" is not recommended herein there remains the need for some plan to influence the seasonal production pattern of producers. Therefore, no change should be made at this time in the present scheme of seasonal Class I pricing or in the method of distributing returns to producers. Much of the effectiveness of the seasonal pricing has been offset by the schedule of premiums which handlers have been paying in recent months. Amendments to a milk order, however, cannot be predicated on the assumption that handlers will continue to pay the present schedule of premiums indefinitely.

Handlers and producers offered several proposals with respect to the level of and the method of determining the Class III price. The Class III price is now the basic formula price, which is the higher of either the butter-powder formula price or the midwest condenser price.

As previously noted the midwest condenser price is now based on the prices obtained from 10 plants located in Michigan and Wisconsin. A large percentage of the excess supplies of this market is disposed of in the form of powder and butter. There are occasions, such as the fall of 1960, when the supply and demand situation at the condenseries is such that their paying prices do not accurately reflect the price at which milk in excess of Class I and Class II needs in this market may be disposed of for manufacturing purposes. On such

occasions the butter-powder formula price has more nearly reflected the price at which excess milk may be moved to manufacturing outlets when not required for Class I purposes.

So that the Class III price may accurately reflect the nationwide market for most manufactured dairy products the actual determination of the Class III price should be based on the average price paid dairy farmers as determined from the Minnesota-Wisconsin price series. Since the Minnesota-Wisconsin price as announced will be that paid for milk of the actual butterfat test received by the plants, it will be necessary to adjust the announced price to reflect the value of milk of 3.5 percent butterfat content. This will be done by using the Class III butterfat differential established in the order. However, until more experience has been gained in this new price series it should also be provided that in no event should the Class III price exceed the butter-powder formula price by more than 10 cents. Such a limitation would prevent the Class III price from being overly affected in the unlikely event that supply-demand conditions peculiar to a particular segment of the manufactured milk industry were to exert an undue influence on the Minnesota-Wisconsin price. Under the provisions as recommended herein the price for excess milk above the Class I and Class II needs in this market will be maintained at the maximum level consistent with facilitating the movement of this excess milk to manufacturing outlets. Further, the price as proposed herein will more appropriately align the Class III price in this market with the prices established for manufacturing uses in nearby Federal order markets.

It was proposed that a lower price be established for skim milk and butterfat used in the manufacture of butter and powder. Handlers and cooperative associations have opportunity to dispose of both skim milk and butterfat within reasonable distances for use in ice cream manufacture. During some months of the year such sales are a large portion of the total Class III use. Such uses generally are more remunerative than butter and powder. This, coupled with the provision that the Class III price shall not exceed the butter-powder price plus 10 cents, will prevent any handler from suffering undue losses on his Class III utilization. Therefore, providing a lower Class III price for milk used in butter and powder would remove the incentive for both proprietary and cooperative handlers to seek the higher valued outlets available and could result in lowering the returns to the producers without a corresponding benefit. The adjustment in the Class III prices recommended herein will enable handlers to dispose of excess milk in an orderly manner.

A dairy farmer proposed that producer milk should be priced f.o.b. the farm, rather than f.o.b. the pool plants as now provided. The supporters of this proposal, however, had given no consideration as to how this proposal might be effectuated. They presented no evidence as to how f.o.b. the farm pricing should

be applied—as to how farms should be zoned or what differentials should be applied to farms at different locations. Therefore, on the limited amount of testimony introduced in this record the proposal is denied.

6. The rate of location adjustments to handlers and producers should be changed and Ashtabula, Ohio, should be added as a basing point for computing location adjustments.

The order presently provides location adjustments to handlers and producers on milk received at pool plants located both 40 miles or more from the Public Square in Cleveland and 27.5 miles or more from the nearer of the City Halls in Akron or Canton, Ohio. Ashtabula is located approximately 57 miles from the Public Square in Cleveland. At the present time, a plant at this location and the producers shipping to it would receive a location adjustment of 13 cents per hundredweight.

Ashtabula is approximately the same distance from Cleveland as is Canton and is a populous urban area. Eliminating the location differential at plants located there will ease the procurement problems of such plants and will enable them to compete for supplies with plants located in metropolitan Cleveland which draw milk from the same area. The procurement area for Ashtabula also overlaps the procurement area for the Youngstown-Warren market. Removing the location differential on milk shipped to Ashtabula will bring the farm price for such milk more nearly in line with that of Youngstown-Warren producers and will tend to prevent any shift of producers from Ashtabula to the Youngstown-Warren market.

Therefore the order should be revised to provide that there be no location differential on milk received at a pool plant or reload point within 27.5 miles of the City Hall in Ashtabula, Ohio.

The order presently provides for location adjustment on Class II utilization. Primarily, Class II represents the utilization of skim milk and butterfat for the production of cottage cheese. The Class II price is 30 cents above the Class III price. Since the location differentials applicable at some distant plants exceed 30 cents, it is possible, under certain circumstances, for skim milk and butterfat used to produce cottage cheese at pool plants located in Michigan and Indiana to be priced to the handler at less than the Class III price. No location adjustments apply to milk utilized in Class III. Under no circumstances should producers receive less for milk used to produce Class II items than for milk used to produce manufactured products. Accordingly, it is provided that the location differential on milk used as Class II shall be limited so that milk utilized in Class II shall not be priced less than the Class III price. Class II milk shall be considered to have been that which was received at the country plants or reload points most distant from the Public Square in Cleveland, Ohio.

The rates of location adjustment credit now provided in the order to handlers for Class I and Class II milk are:

Distance:	Cents per hundredweight
40.1-60 miles -----	13
60.1-74 miles -----	20

plus 2 cents per hundredweight for each 14 miles or fraction thereof in excess of 74 miles.

The rates presently established in the order were determined several years ago. Since then, many changes have occurred which affect the cost of handling and transporting milk long distances. Road conditions have improved and load limits on highways have been raised permitting the movement of large milk tankers. Thus, milk which is moved in much larger tankers over longer distances and on a regular basis under today's marketing conditions can be moved for less than when the present rates were established. For shorter distances there has been no material change in the cost of transporting milk.

The two cooperative associations proposing a change in the rate of location adjustments transport on a regular basis substantial quantities of milk from supply plants located in Indiana and Michigan to distributing plants located in the Cleveland Metropolitan area. These plants are located more than 200 miles from the Public Square in Cleveland. The cost per hundredweight of hauling milk on a regular scheduled daily basis from Goshen, Indiana, to Cleveland, Ohio, is 35 cents. The rate of location adjustment proposed herein for a plant located at Goshen, Indiana, would be 36 cents. The present rate for this location is 42 cents per hundredweight. A handler with a supply plant located nearly 120 miles from Cleveland testified that the cost of hauling milk to Cleveland is 24 cents per hundredweight. The proposed rate at this location is 25 cents per hundredweight as compared to the present location adjustment of 28 cents.

Location differentials to plants located more than 70 miles from the Public Square in Cleveland should reflect the efficiencies that have resulted from technological changes in the marketing of milk in recent years. The rate of location adjustment should reflect the most efficient means of bringing in a regular supply of producer milk to the pool distributing plants. It is concluded that the location adjustment that should apply both to handlers and producers for milk received at pool plants more than 70 miles from the Public Square in Cleveland should be 20 cents per hundredweight, plus one cent for each 10 miles or fraction thereof in excess of 70 miles. This rate for location differentials to both handlers and producers appropriately reflects the cost of moving milk into the distributing plants of handlers in the Northeastern Ohio marketing area under both efficient and economic conditions.

**Rulings on proposed findings and conclusions.** Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and con-

clusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings and reach such conclusions are denied for the reasons previously stated in this decision.

**General findings.** The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

**Rulings on exceptions.** In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

**Marketing agreement and order.** Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Northeastern Ohio Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Northeastern Ohio Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

**It is hereby ordered,** That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as

hereby proposed to be amended by the attached order which will be published with this decision.

*Determination of representative period.* The month of September 1961 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Northeastern Ohio marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on November 21, 1961.

JAMES T. RALPH,  
Assistant Secretary.

*Order<sup>1</sup> Amending the Order Regulating the Handling of Milk in the Northeastern Ohio Marketing Area*

**§ 975.0 Findings and determinations.**

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Northeastern Ohio marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and whole-some milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the

same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Northeastern Ohio marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

**§ 975.8 [Amendment]**

1. Delete § 975.8(d) and substitute:

(d) A plant located less than 40 miles from the Public Square in Cleveland, Ohio, or less than 27.5 miles from the nearer of the City Hall in Akron, the City Hall in Canton or the City Hall in Ashtabula, Ohio, operated by a cooperative association, or associations, if one-half or more of the milk (exclusive of that received at pool plants described in paragraphs (b) and (c) of this section) delivered during the immediately preceding six-month period by producers who are members of such association(s) including amounts transferred from the plant of the cooperative association, was received at the pool plants of other handlers:

2. Delete § 975.12 and substitute:

**§ 975.12 Fluid milk product.**

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk and flavored milk drinks unmodified or "fortified" including "dietary milk products" and reconstituted milk or skim milk; concentrated milk not in hermetically sealed cans; and cream and mixtures of cream and milk or skim milk, but not including the following: frozen or sour cream, aerated cream products, eggnog, ice cream and frozen dessert mixes or milk shake mix.

3. Delete § 975.18 and substitute:

**§ 975.18 Reload point.**

"Reload point" means a location which is both more than 40 miles from the Public Square in Cleveland, Ohio, and more than 27.5 miles from the nearer of the City Hall in Akron, the City Hall in Canton or the City Hall in Ashtabula, Ohio, at which facilities approved by the appropriate health authority in the marketing area for transfer of milk from one tank truck to another and for washing of tank trucks are maintained, and at which milk moved from the farm in a tank truck is commingled with other such milk before entering a milk plant. All reloading operations on the premises of a pool plant shall be considered to be a part of such pool plant's operation. Otherwise the operations at a reload point shall be considered to be a part of the operation of the pool plant to which the major portion of the milk moved from farms to the reload point normally moves, except for the application of location adjustments pursuant to §§ 975.55 and 975.81.

**§ 975.2 [Amendment]**

4. Delete § 975.22 (j) and (l) and substitute:

(j) On or before the dates specified herein, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following:

(1) The 6th day of each month, the Class I milk price and the Class I butterfat differential, both for the current month; and the Class II and Class III milk prices, and the Class II and Class III butterfat differentials all for the preceding month; and

(2) The 14th day of each month the uniform price computed pursuant to § 975.71 and the butterfat differential computed pursuant to § 975.82; and

(k) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

5. Delete § 975.41 and substitute:

**§ 975.41 Classes of utilization.**

Subject to the conditions set forth in §§ 975.43 through 975.46, the classes of utilization shall be as follows:

(a) *Class I.* Class I shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products, except those classified pursuant to paragraph (c) (2), (3) and (8) of this section, except that fluid milk products which have been fortified by the addition of nonfat solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content, and

(2) Not specifically accounted for as Class II or Class III;

(b) *Class II.* Class II shall be all skim milk and butterfat:

(1) Used to produce cottage cheese; and

(2) Disposed of as sour cream for consumption as such; and

(c) *Class III.* Class III shall be all skim milk and butterfat:

(1) Used to produce a product other than a fluid milk product or a Class II product;

(2) Disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(3) Disposed of for livestock feed or skim milk dumped subject to prior notification to and inspection (at his discretion) by the market administrator;

(4) In frozen cream;

(5) In inventory of fluid milk products or sour cream on hand at the end of the month;

(6) In shrinkage allocated to producer milk that is not in excess of 2 percent of the receipts of skim milk and butterfat, respectively, in producer milk, plus 1.5 percent of receipts of skim milk and butterfat, respectively, received in bulk tank lots from pool plants, less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk tank lots to pool plants;

(7) In shrinkage of other source milk; and

(8) Contained in that portion of "fortified" fluid milk products not classified as Class I milk pursuant to paragraph (a) (1) of this section.

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 975.43 [Amendment]

6. Delete § 975.43(d) (3) and substitute:

(3) The Class I utilization in the non-pool plant does not exceed the receipts of skim milk and butterfat in Grade A milk from dairy farmers who constitute its source of supply. If the Class I utilization at the nonpool plant exceeds such receipts, allocate the skim milk and butterfat so transferred to Class I to the extent remaining, except that if receipts from plants which are pool plants under this and other Federal orders exceed the amount remaining, the amount of such transferred skim milk and butterfat allocated to Class I shall be determined by prorating the remaining Class I utilization in accordance with the receipts from all such plants at the nonpool transferee plant.

§ 975.50 [Amendment]

7. Delete § 975.50(a) and substitute:

(a) The average of the basic (or field) prices ascertained to have been paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator by the Department of Agriculture or by the companies indicated below:

PRESENT OPERATOR AND LOCATION

Borden Co., New London, Wis.  
Borden Co., Orfordville, Wis.  
Carnation Co., Richland Center, Wis.  
Pet Milk Co., Belleville, Wis.  
Pet Milk Co., Coopersville, Mich.  
Pet Milk Co., New Glarus, Wis.  
Pet Milk Co., Wayland, Mich.  
White House Milk Co., Manitowoc, Wis.  
White House Milk Co., West Bend, Wis.

and

§ 975.5 [Amendment]

8. Delete the opening paragraph of § 975.51(a) and substitute:

(a) Add to the basic formula price for the preceding month the following amount for the period indicated:

Delivery period:	Amount
April through July	\$1.35
All others	1.80

and add or subtract a "supply-demand adjustment" computed as follows:

9. Delete § 975.51(a) (1) and (2) and substitute:

(1) Divide the total quantity of milk received from producers defined in § 975.10 and in § 995.12 of the order regulating the handling of milk in the North Central Ohio marketing area during the second and third months preceding by the gross quantity of milk utilized as Class I (adjusted for inter-market and interhandler transfers) at pool plants defined in § 975.8 and in § 995.9 of the order regulating the handling of milk in the North Central Ohio marketing area in the same two months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "current utilization percentage".

(2) Compute a "deviation percentage" by subtracting from the current utilization percentage as computed in subparagraph (1) of this paragraph, the "standard utilization percentage" shown below:

Months for which the price is being computed:	Standard utilization percentage
January	126
February	125
March	125
April	126
May	127
June	128
July	137
August	145
September	138
October	124
November	122
December	124

10. Delete § 975.53 and substitute:

§ 975.53 Class III milk prices.

The minimum price per hundredweight to be paid by each handler, f.o.b. his plant, for producer milk of 3.5 percent butterfat content received from producers or from a cooperative association during the month, which is classified as Class III, shall be the average price per hundredweight for manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin, as reported by the Department of Agriculture for the month adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 975.54(c) and rounded to the nearest full cent but in no event shall the Class III price exceed the price computed pursuant to § 975.50(b) plus 10 cents.

§ 975.55 [Amendment]

11. Delete the opening paragraph of § 975.55 and substitute:

For producer milk received at a pool plant or reload point which is located both 40 miles or more from the Public Square in Cleveland, Ohio, and also 27.5 miles or more from the nearer of the City Hall in Akron, the City Hall in Canton or the City Hall in Ashtabula, Ohio, the respective class prices for Class I and Class II utilization pursuant to §§ 975.51 and 975.52 shall be reduced at the rate specified below for the location of such plant or reload point except that in no case shall the adjustment to Class II utilization exceed 30 cents per hundredweight. For purposes of this limitation with respect to Class II utilization, separate assignments in sequence shall be made pursuant to paragraphs (b) and (c) of this section with respect to Class I and Class II so that location adjustments associated with Class II shall be allocated to the most distant plants to which assignments are made.

12. Delete § 975.55(d) and substitute:

(d) The rates of location adjustment credit shall be as follows, based on the shortest highway distance from the Public Square in Cleveland, Ohio, as determined by the market administrator:

Distance:	Cents per hundredweight
40.1-60 miles	13
60.1-70 miles	20

plus one cent per hundredweight for each 10 miles or fraction thereof in excess of 70 miles.

13. Delete § 975.81 and substitute:

§ 975.81 Location adjustments to producers.

In making payments pursuant to paragraphs (a) and (b) of § 975.80, a handler may deduct with respect to all milk received from producers at a pool plant or reload point which is located both 40 miles or more from the Public Square in Cleveland, Ohio, and also 27.5 miles or more from the nearer of the City Hall in Akron, the City Hall in Canton, or the City Hall in Ashtabula, Ohio, by the shortest highway distance as determined by the market administrator, at the rates specified in § 975.55 based on mileage measured from the Public Square in Cleveland, Ohio.

[F.R. Doc. 61-11192; Filed, Nov. 24, 1961; 8:52 a.m.]

[ 7 CFR Part 1024 ]

[Docket Nos. AO-123-A24, AO-308-A2]

MILK IN OHIO VALLEY MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Louisville, Kentucky, on September 18-27, 1961, pursuant to notice thereof issued on August 30, 1961 (26 F.R. 8105).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary, United States Department of Agriculture, on November 6, 1961 (26 F.R. 10597; F.R. Doc. 61-10747) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

This decision relates only to the material issue of whether or not Order No. 124 should be amended to provide that a cooperative association may be the handler for bulk tank milk of its producer members for which it assumes responsibility for the handling from the farm to a pool plant, such amendment to include appropriate conforming changes throughout the order. Other material issues on the record are reserved for a further decision on this record.

**Findings and conclusions.** The following findings and conclusions are based on evidence presented at the hearing and the record thereof:

The definition of a handler should be modified to include a cooperative association with respect to milk of its producer members which is picked up in bulk at the farm by tank trucks owned by, operated by, or under contract to such association and delivered in such trucks (or in trucks into which the milk is reloaded) to pool plants. Other provisions of the order should be modified to

conform to the proposed handler definition.

Kyana Milk Producers, Inc., a producer cooperative association in the Ohio Valley market, requested that Order No. 124 be amended to allow a cooperative association to be the handler on bulk tank milk of its producer members for which it assumes responsibility for the handling from the time the milk is loaded at the farm into a tank truck until it is delivered to a pool plant. For pricing purposes, such milk would be considered as having been received by the association at the location of the plant to which it was delivered. This association, whose membership includes most of the producers on this market, asked that the Department take the earliest possible action on this issue separately from other issues on the record because of the marketing problems encountered by the association in supplying handlers and in disposing of milk in excess of Class I market requirements.

A similar proposal was made by a group of eight proprietary handlers regulated under Order No. 124. The proposal differed, however, in that it would not provide an option but would require a cooperative association controlling the movement of bulk tank milk of its producer members in the manner previously specified to be the handler for such milk. Also, under the handlers' proposal such milk would be considered for purposes of quantity and butterfat measurements as received by a cooperative association at the producer's farm.

Kyana Milk Producers presently assumes the responsibility for supplying the Class I needs of the handlers in the Ohio Valley market and for disposing of the market's excess milk supplies not needed by these handlers. Such disposals are made to nonpool plants inasmuch as the association has no manufacturing facilities.

In performing these functions, Kyana Milk Producers arranges for and directs the movement of milk from its members' farms to the distributing plants or surplus disposal outlets. The majority of producers on this market have installed farm tanks from which the milk, commonly referred to as bulk tank milk, is picked up by pumping it into tank trucks. The association has contracts with all of the haulers moving such milk and owns the tanks on the trucks. A sample of each member's milk shipment is delivered to one of the association's three laboratories located in Dale and Evansville, Indiana, and Owensboro, Kentucky, for butterfat testing purposes. Records of the members are maintained either at Evansville or Louisville. Kyana Milk Producers has direct knowledge and complete records of quantities of milk and of butterfat tests for each member. Purchasing handlers, on the other hand, have only indirect knowledge of such data and pay the association for the milk on the basis of information of milk weights and tests supplied by the association.

To meet the requirements of handlers in the market, it is often necessary for the association to split a tank truck load

of milk between several handlers or to change from day to day the plant to which a member's milk is delivered. A need for reloading milk from farm pickup tank trucks to trucks of larger capacity may occur. These situations make it difficult or impossible for purchasing handlers to obtain adequate information for maintaining producer records on such milk except indirectly through the cooperative association. The handling of reserve milk by the association, which involves intermittent diversion of a producer's milk to nonpool plants, also complicates the record keeping for pool plant operators. The establishment of producer butterfat tests for a partial month's deliveries also constitute a special problem when a producer delivers to more than one handler during the month.

Because of these circumstances, a cooperative association should be provided the option of being the handler for bulk tank milk of its producer members. This change in the handler definition and other changes in order provisions recommended herein will meet the problems described by producers and handlers with respect to the handling and accounting for such milk.

A cooperative association desiring to be the handler for bulk tank milk of its members should notify the market administrator and the handler to whom the delivery is made that it intends to act in such a capacity. Such notification should be given prior to the time of delivery.

A delivery of milk to a pool plant by a cooperative association in this capacity as a handler should be considered as an interhandler transfer of milk and accounted for as to quantity and classification in the same manner as other interhandler transfers. The provision covering classification of interhandler transfers in effect allows the transferor and transferee handler to agree that the milk is entirely Class I. The provision should preclude, however, any overclassification in Class I of milk so transferred by a cooperative association. In the absence of any agreement between the cooperative association and the transferee handler as to the classification of such milk, classification should be pro rata to the remaining milk in each class after the assignment of other source milk, transfers from other pool plants, and beginning inventory. So that appropriate location differentials to handlers and producers may apply, milk so delivered by a cooperative association should be considered as received from producers by such association at the location of the pool plant to which it was delivered.

A cooperative association acting as the handler for bulk tank milk would be a pooling handler and should make payments to, or receive payments from, the producer-settlement fund, as the case requires, with respect to such milk. Reports of receipts from each producer, disposition, classification, payroll reports, and any other necessary reports should be required of the cooperative association as a handler in this capacity.

Since it is the general practice to commingle the milk of several bulk tank

producers in a tank truck, the identity of an individual producer's milk is lost at the moment such milk is pumped from the farm bulk tank into the tank truck. Inasmuch as each producer's milk must be accounted for on an individual basis, the quantity of milk as measured at the farm must necessarily be the quantity for which the first handler receiving the milk must account for to the pool.

Proposals were made by producers and handlers to change the shrinkage provisions of the order to conform with the proposed handler definition applicable to a cooperative association acting as a receiving handler for bulk tank milk.

The provisions of the order relating to shrinkage now provide an allowance of 2 percent, which is divided in the case of interplant transfers on the basis of 0.5 percent to a plant first receiving the milk and 1.5 percent to the transferee plant. These percentages refer to the quantities of receipts, except other source milk, which may be classified as Class II milk. The excess shrinkage over such percentages is Class I milk. The order recognizes diversion of a producer's milk by a pool plant operator to another pool plant, and in such case the 2 percent shrinkage allowance applies at the plant where the milk is physically received. No shrinkage allowance applies to milk diverted to nonpool plants.

Kyana Milk Producers proposed that shrinkage allowance on bulk tank milk for which a cooperative association elects to be the handler be divided between the association and the handler to whom the milk is delivered. The cooperative association would be allowed up to 0.5 percent shrinkage and the operator of the pool plant would be allowed up to 1.5 percent shrinkage on the milk delivered to his plant. Under this arrangement, the cooperative association would account for the milk on the basis of farm measurements and individual producer butterfat tests. Kyana Milk Producers proposed, also, that should a pool plant operator elect to purchase bulk tank milk from a cooperative association on the basis of quantity measurements determined at the farm, the entire 2 percent shrinkage allowance would accrue to the plant operator.

A proprietary handler supported the shrinkage proposals of Kyana Milk Producers. The group of handlers who proposed that a cooperative association be the handler on bulk tank milk asked that the shrinkage allowed for the plant receiving the milk from the cooperative association be computed on the weight and butterfat test as determined at the plant.

It is concluded that the shrinkage allowance on bulk tank milk for which a cooperative association elects to be the handler should be divided in the manner proposed between the cooperative association and the plant to which the milk is delivered. Such a division of shrinkage is in accord with the normal expectation of greater shrinkage in processing milk than occurs in handling milk prior to processing and generally conforms with the present provisions of the order regarding shrinkage. The proposed optional arrangement under which the 2

percent shrinkage allowance would apply to a handler if he elects to purchase such bulk tank milk from a cooperative association on the basis of the quantity as determined at the producer's farm and the butterfat tests of the individual producers is adopted. The handler should notify the market administrator on or before the date he submits his monthly report, applicable to such milk, of his intent to purchase milk in this manner. If the handler did not so elect, the 1.5 percent rate of shrinkage allowance would apply to the quantity of milk received from the cooperative.

In conformance with the preceding conclusions as to the method of computing shrinkage allowances, the proration of total shrinkage to the several types of milk receipts should be modified so that shrinkage will be prorated to the total pounds of other source milk on the one hand, and on the other hand to the total pounds of milk to which shrinkage allowances apply.

The order should provide that a handler receiving bulk tank milk from a cooperative association acting as the handler for such milk should pay the association an amount not less than the value of the milk computed at the applicable class prices for the location of his plant where the milk is physically received. Such payments should be made by the 14th day of the month following the month in which such milk is received.

Section 1024.86 of the order now establishes for each handler the pro rata share of the expense of administration of the order by applying a specified rate of payment on the quantities of milk received by each handler. The rate of payment presently applies to all receipts of producer milk. The definition of producer milk, however, is modified by new language adopted herein to include bulk tank milk received from a producer by a cooperative association acting as the handler for such milk. In order to maintain pro rata sharing of the expense of administration by handlers operating pool plants, the operation of which entails the bulk of the market administrator's verification and auditing program, the provision should specify that such handlers continue to pay the administrative expense on all milk received which moves directly from producers' farms to the pool plant, whether the milk is or is not received from a cooperative association acting in the capacity of a handler.

**Rulings on proposed findings and conclusions.** Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

**General findings.** The findings and determinations hereinafter set forth are supplementary and in addition to the

findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

**Rulings on exceptions.** In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

**Marketing agreement and order.** Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Ohio Valley Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Ohio Valley Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

**It is hereby ordered.** That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

**Determination of representative period.** The month of August 1961 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Ohio Valley marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such repre-

sentative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on November 21, 1961.

JAMES T. RALPH,  
Assistant Secretary.

*Order Amending the Order Regulating the Handling of Milk in the Ohio Valley Marketing Area*

§ 1024.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Ohio Valley marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, excluding a cooperative association in its capacity as a handler pursuant to § 1024.17(c), as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Secretary may prescribe, with respect to (i) producer milk, (ii) milk received from a cooperative association in its capacity as a handler pursuant to § 1024.17(c), (iii) other source milk allocated to Class I at a pool plant, and (iv) milk at a fluid milk plant which is a non-pool plant in accordance with § 1024.75 (a) or (b).

*Order relative to handling. It is therefore ordered,* That on and after the effective date hereof, the handling of milk in the Ohio Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order is hereby further amended as follows:

#### § 1024.10 [Amendment]

1. In § 1024.10 insert after the word "farmers" wherever it appears the following parenthetical phrase: "(including such milk received from a cooperative association in its capacity as a handler pursuant to § 1024.17(c))".

#### § 1024.12 [Amendment]

2. In § 1024.12 delete the period at the end of paragraph (b) and add the following language: "or by a cooperative association in its capacity as a handler pursuant to § 1024.17(c)."

#### § 1024.13 [Amendment]

3. In § 1024.13 redesignate paragraphs (b) and (c) as paragraphs (c) and (d), respectively, and insert a new paragraph (b) to read as follows:

(b) Received from producers by a cooperative association in its capacity as a handler pursuant to § 1024.17(c);

#### § 1024.14 [Amendment]

4. In § 1024.14(a) delete subparagraph (2) and substitute the following:

(2) producer milk and milk received from a cooperative association in its capacity as a handler pursuant to § 1024.17(c), and

5. Delete § 1024.17 and substitute the following:

#### § 1024.17 Handler.

"Handler" means:

(a) Any person who operates a fluid milk plant;

(b) Any cooperative association with respect to milk diverted by it in accordance with the conditions set forth in § 1024.13; and

(c) Any cooperative association with respect to the milk of its producer members which is delivered for the account of the cooperative association from the farm to the pool plant(s) of another handler in a tank truck owned by, operated by, or under contract to such cooperative association if the cooperative association has notified in writing prior to delivery both the market administrator and the handler to whom the milk is delivered that it wishes to be the handler for such milk. Such milk shall be considered as having been received by the cooperative association at the location of the plant to which it was delivered.

#### § 1024.30 [Amendment]

6. In § 1024.30(a) (1) delete subdivision (ii) and substitute the following:

(ii) Fluid milk products received from other pool plants and milk received from a cooperative association in its capacity as a handler pursuant to § 1024.17(c);

#### § 1024.31 [Amendment]

7. In § 1024.31(b) (1) delete the language preceding subdivision (i) and delete subdivision (i) and substitute the following: "On or before the 20th day after the end of the month his producer or dairy farmer payroll for such month which shall show for each producer or dairy farmer, as the case may be (and, for each pool plant and for each fluid milk plant subject to § 1024.75(b) in the case of those handlers operating such plants): (i) The total pounds of milk received, including for the months of April through July the total pounds of base and excess milk for each producer;"

#### § 1024.41 [Amendment]

8. In § 1024.41(b) delete subparagraph (5) and substitute the following:

(5) in shrinkage, excluding shrinkage of other source milk, not to exceed the following:

(i) Two percent of skim milk and butterfat, respectively, in producer milk physically received at a pool plant; plus

(ii) One and one-half percent of skim milk and butterfat, respectively, in milk received at a pool plant from a cooperative association in its capacity as a handler pursuant to § 1024.17(c), except that if the handler of such pool plant files notice with the market administrator on or before the date he submits his monthly report applicable to such milk pursuant to § 1024.30 that he is purchasing such milk on the basis of weights determined at the farm from farm bulk tank measurements the applicable percentage shall be two percent; plus

(iii) One and one-half percent of skim milk and butterfat, respectively, in fluid milk products received at a pool plant in bulk as a transfer from other pool plants; less

(iv) One and one-half percent of skim milk and butterfat, respectively, in fluid milk products transferred in bulk from a pool plant to other plants; and plus

(v) One-half of one percent of skim milk and butterfat, respectively, in producer milk received by a cooperative association in its capacity as a handler pursuant to § 1024.17(c) unless the exception provided in subdivision (ii) of this subparagraph applies; and

#### § 1024.42 [Amendment]

9. In § 1024.42 delete paragraphs (a) and (b) and substitute the following:

(a) Compute the total shrinkage for each handler, or for each pool plant in the case of those handlers operating pool plants, by subtracting the skim milk and butterfat, respectively, classified as Class I milk pursuant to § 1024.41(a) (1) and as Class II milk pursuant to § 1024.41(b) (1), (2), (3), and (4) (subject to the provisions of §§ 1024.43 through 1024.45) from the receipts of the skim milk and butterfat, respectively, required to be reported pursuant to § 1024.30, and

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section, to (1) the total of the pounds of milk received from producers (excluding milk diverted by the handler), received from a cooperative association in its capacity as a handler pursuant to § 1024.17(c), and received from other pool plants as transfers in the form of fluid milk products in bulk in excess of transfers of such products in bulk to other plants, and (2) the total pounds of other source milk received in bulk in the form of fluid milk products.

#### § 1024.44 [Amendment]

10. In § 1024.44 delete the introductory text preceding paragraph (a) and delete paragraph (a) and substitute the following:

Skim milk or butterfat disposed of by a handler from a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1024.17(c) shall be classified as follows:

(a) As Class I milk if transferred or diverted in the form of a fluid milk product to a pool plant of the same handler or of another handler unless utilization in Class II is claimed by the handler or handlers, as the case may be, in their reports submitted pursuant to § 1024.30 or such milk is classified pursuant to paragraph (b) of this section: *Provided*, That the skim milk or butterfat so classified as Class II milk shall be limited to the amount of skim milk or butterfat, respectively, remaining in Class II milk in the transferee plant after making the assignments pursuant to § 1024.46(a) (1) through (4) and the corresponding steps of § 1024.46(b) and any additional amounts of skim milk or butterfat so transferred shall be classified as Class I milk: *And provided further*, That for transfers or diversions between pool plants, if the transferor or diverting plant has other source milk during the month, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the highest priced available class utilization to the producer milk at both plants: *And provided also*, That in no case shall the assignment of transferred skim milk or butterfat to Class I in the transferee plant exceed the difference between the transferee plant's total receipts of milk and milk products and the utilization by the transferee plant in Class II;

11. In § 1024.44 redesignate paragraphs (b), (c), and (d) as paragraphs (c), (d), and (e), respectively, and insert a new paragraph (b) to read as follows:

(b) If a specified utilization of skim milk and butterfat transferred to a pool plant of another handler by a cooperative association in its capacity as a handler pursuant to § 1024.17(c) is not claimed by both handlers pursuant to paragraph (a) of this section, such skim milk and butterfat shall be classified pro rata to the respective amounts remaining in each class at the pool plant of the receiving handler after making the assignments pursuant to § 1024.46(a) (7) and the corresponding step of § 1024.46(b);

**§ 1024.45 [Amendment]**

12. In § 1024.45 delete the language preceding the proviso and substitute the following: "For each month the market administrator shall correct for mathematical and other obvious errors the reports of receipts and utilization submitted pursuant to § 1024.30 by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler:".

**§ 1024.46 [Amendment]**

13. In § 1024.46(a) delete subparagraph (1) and substitute the following:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk classified pursuant to § 1024.41(b)(5) (i) through (iv);

14. In § 1024.46(a) delete the word "and" in subparagraph (7), redesignate subparagraph (8) as subparagraph (9) and insert a new subparagraph (8) to read as follows:

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from a cooperative association in its capacity as a handler pursuant to § 1024.17(c) according to its classification determined pursuant to § 1024.44 (a) or (b); and

**§ 1024.53 [Amendment]**

15. In § 1024.53 delete the language preceding the mileage schedule and substitute the following: "For that milk received from producers or from a cooperative association in its capacity as a handler pursuant to § 1024.17(c) at a pool plant located 80 miles or more from the County Courthouse in Evansville, Indiana, or Owensboro, Kentucky, whichever is nearer, by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1024.51(a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received:".

**§ 1024.60 [Amendment]**

16. In § 1024.60 insert after the word "plant(s)" which appears in the language preceding the proviso the words "and by a cooperative association in its capacity as a handler pursuant to § 1024.17 (b) or (c)".

**§ 1024.61 [Amendment]**

17. In § 1024.61(b) insert after the word "plant" the words "or is received by a cooperative association in its capacity as a handler pursuant to § 1024.17 (b) or (c)".

**§ 1024.70 [Amendment]**

18. In § 1024.70 delete paragraph (b) and substitute the following:

(b) Add an amount computed by multiplying the pounds of any overage deducted from each class pursuant to § 1024.46(a)(9) and the corresponding step in § 1024.46(b) by the applicable class price(s);

**§ 1024.71 [Amendment]**

19. In § 1024.71 delete paragraph (a) and substitute the following:

(a) Combine into one total the values computed pursuant to § 1024.70 for all handlers operating pool plants and for all cooperative associations in their capacity as handlers pursuant to § 1024.17 (b) or (c) who made the reports prescribed in § 1024.30 and who made the payments pursuant to §§ 1024.80 and 1024.82 for the preceding month;

**§ 1024.74 [Amendment]**

20. In § 1024.74(a) delete the colon at the end of the introductory text preceding subparagraph (1) and add the following language: "and each cooperative association which is a handler pursuant to § 1024.17 (b) or (c):".

**§ 1024.75 [Amendment]**

21. In § 1024.75(b)(1) change the reference listed in the second proviso as "§ 1042.44 (c) or (d)" to read "§ 1024.44 (d) or (e)".

**§ 1024.80 [Amendment]**

22. In § 1024.80 add a new paragraph (g) to read as follows:

(g) In the case of milk received by a handler from a cooperative association in its capacity as a handler pursuant to § 1024.17(c), such handler shall pay on or before the 14th day after the end of each month to such cooperative association for milk so received during the month an amount not less than the value of such milk computed at the applicable class prices for the location of the plant of the buying handler at which such milk was physically received.

**§ 1024.82 [Amendment]**

23. In § 1024.82 delete the words "at his pool plant(s)".

**§ 1024.83 [Amendment]**

24. In § 1024.83 delete the words "at his pool plant(s)".

**§ 1024.85 [Amendment]**

25. In § 1024.85(b) insert after the word "received" the words "from producers or by a cooperative association in its capacity as a handler pursuant to § 1024.17(c)".

26. Delete § 1024.86 and substitute the following:

**§ 1024.86 Expense of administration.**

As his pro rata share of the expense of the administration of this part, each handler, excluding a cooperative association in its capacity as a handler pursuant to § 1024.17(c), shall pay to the market administrator on or before the 12th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe for each hundredweight of skim milk and butterfat contained in his receipts during the month of (a) producer milk (including such handler's own farm production), (b) milk received from a cooperative association in its capacity as a handler pursuant to § 1024.17(c), and

(c) other source milk allocated to Class I milk pursuant to § 1024.46(a)(3) and the corresponding step of § 1024.46(b). A handler operating a fluid milk plant which is a nonpool plant shall pay administrative assessments in accordance with § 1024.75.

[F.R. Doc. 61-11191; Filed, Nov. 24, 1961; 8:51 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

#### [ 20 CFR Part 404 ]

[Regs. 4, Amdt.]

### FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

#### Payments and Reports By States; Proposed Rule Making

Notice is hereby given pursuant to the Administrative Procedure Act approved June 11, 1946, that the amendment to the regulations set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare, as an amendment to present Social Security Administration Regulations No. 4, as amended (20 CFR 404.1 et seq.). It is proposed to amend Regulations No. 4, § 404.1221, to reflect the increase in contribution rates in a State's old-age, survivors, and disability insurance coverage agreement with the Secretary of Health, Education, and Welfare provided for in the 1961 amendments to the Social Security Act. It is also proposed to amend Regulations No. 4, § 404.1222, § 404.1240, § 404.1250, § 404.1256, § 404.1262, and § 404.1266, and to add new § 404.1222a, § 404.1250a, and § 404.1250b, to implement the provisions of section 218(e) of the Social Security Act providing for a limit on the amount of contributions due under a State's old-age, survivors, and disability insurance coverage agreement with the Secretary of Health, Education, and Welfare in certain situations where an individual is employed by more than one political subdivision, or by the State and one or more political subdivisions, during a calendar year.

Prior to the final adoption of the proposed amendment, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue, SW., Washington 25, D.C., within a period of 30 days from the date of publication of this Notice in the FEDERAL REGISTER.

The proposed amendment is to be issued under the authority contained in sections 205(a), 218(e), 218(i), and 1102 of the Social Security Act, 53 Stat. 1368, as amended, 74 Stat. 930, 64 Stat. 517, as amended, 46 Stat. 647, as amended; and

section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18.

[SEAL] H. W. L. MITCHELL,  
Commissioner of Social Security.

AUGUST 17, 1961.

Approved: November 20, 1961.

WILBUR J. COHEN,  
Acting Secretary of Health,  
Education, and Welfare.

Regulations No. 4, as amended, of the Social Security Administration (20 CFR 404.1 et seq.) are further amended as follows:

1. Section 404.1221 is amended to read as follows:

**§ 404.1221 Rate and computation of contributions.**

(a) *Contributions for calendar years prior to 1955.* The rates of taxes imposed on employees by section 1400 of the Internal Revenue Code of 1939 for the respective calendar years are as follows:

	Percent
For the calendar years 1951 to 1953, both inclusive.....	1½
For the calendar year 1954.....	2

The rates of taxes imposed on employers by section 1410 of the Internal Revenue Code of 1939 for the respective calendar years are as follows:

	Percent
For the calendar years 1951 to 1953, both inclusive.....	1½
For the calendar year 1954.....	2

(b) *Contributions for calendar years after 1954.* (1) The rates of taxes imposed on employees by section 3101 of the Internal Revenue Code of 1954 for the respective calendar years are as follows:

	Percent
For the calendar years:	
1955 and 1956.....	2
1957 and 1958.....	2¼
1959.....	2½
1960 and 1961.....	3
1962.....	3½
1963 to 1965, both inclusive.....	3¾
1966 and 1967.....	4½
1968 and subsequent years.....	4½

(2) The rates of taxes imposed on employers by section 3111 of the Internal Revenue Code of 1954 for the respective calendar years are as follows:

	Percent
For the calendar years:	
1955 and 1956.....	2
1957 and 1958.....	2¼
1959.....	2½
1960 and 1961.....	3
1962.....	3½
1963 to 1965, both inclusive.....	3¾
1966 and 1967.....	4½
1968 and subsequent years.....	4½

(c) *Method of computation of contributions.* The contributions are computed by applying to the wages actually or constructively paid to an employee the rate in effect at the time such wages are actually or constructively paid.

*Example:* During 1953, A is engaged in the performance of service in employment. In the following year, 1954, A receives \$250 from his employer as remuneration for services which he performed in the preceding year. The applicable rate is the rate for the year 1954 (the year in which the wages are received), and not 1½ percent, the rate for the calendar year 1953 (the year in which the services were performed).

2. Section 404.1222 is amended to read as follows:

**§ 404.1222 Liability of State for contributions.**

(a) *In general.* The State is liable for contributions with respect to the wages paid to individuals performing services in employment as employees in any coverage group included in the agreement. With respect to service covered under the agreement and performed subsequent to the date of execution of the agreement, the liability of the State attaches at the time that the wages are either actually or constructively paid to individuals performing service in employment as employees in any coverage group included in the agreement, notwithstanding the fact that the wages are paid in media other than money (for example, wages paid in board or lodging; see § 404.1026(a)). If the agreement is effective retroactively with respect to service in employment performed by individuals as members of any coverage group, the liability of the State with respect to wages paid during such retroactive period attaches as of the date of execution of the agreement, or the modification of the agreement pursuant to which the coverage group is included thereunder, as the case may be.

(b) *Measure of State's liability.* The amount of the State's liability for contributions is equal to the sum of the taxes which would be imposed by sections 1400 and 1410 of the Internal Revenue Code of 1939, if the services of the employees covered by the agreement constituted employment as defined in section 1426 of such code, and the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, if the services of the employees covered by the agreement constituted employment as defined in section 3121 of such code. (See § 404.1222a for the computation of contributions where the provisions of section 218(e)(2) of the Act are applicable.)

3. A new § 404.1222a is added following § 404.1222, to read as follows:

**§ 404.1222a Limitation on State's liability for contributions for multiple employment.**

(a) *In general.* Notwithstanding paragraph (b) of § 404.1222, where:

(1) An individual in any calendar year performs services in employment as an employee of a State in one or more coverage groups included in an agreement and as an employee of one or more political subdivisions of the State in one or more coverage groups included in an agreement, or as an employee of more than one political subdivision in one or more coverage groups of each such political subdivision included in an agreement; and

(2) Such State provides all of the funds for the payment of that portion of the contributions payable with respect to the remuneration of such individual for services in employment in the coverage groups included under the agreement which is equivalent to the tax which would be imposed by section 3111 of the Internal Revenue Code of 1954 if the

services of such individual constituted employment as defined in section 3121 of such code; and

(3) The State is not reimbursed by any political subdivision involved for the payment of such amounts, the agreement may provide (either in the original agreement or by a modification thereof) that the amount of the State's liability for contributions attributable to the remuneration of such individual for such services in employment included under the agreement shall be computed as though the individual had performed services in employment in the employ of one political subdivision, and, in accordance with such agreement, the State shall so compute the contributions attributable to the remuneration of such individual.

(b) *Identification of employees in multiple employment.* Any agreement or modification of an agreement which provides for the computation of contributions in the manner prescribed in paragraph (a) of this section shall identify therein the class or classes of employees with respect to whose wages such manner of computing contributions shall apply. For example, the State may provide that such computation shall apply with respect to the wages paid to all individuals for services performed in positions covered by a particular retirement system, or it may provide that such computation shall apply with respect to the wages paid to all individuals who are members of any two or more coverage groups designated therein. The State shall promptly notify the Department if the conditions in paragraph (a) of this section are no longer met with respect to any class or classes of the employees previously identified in the agreement or modification thereof. Such notification shall identify each class of employees and the date on which such conditions cease to be met.

(c) *Effective date.* The agreement or modification thereof shall also provide that such computation of contributions shall apply with respect to wages paid after an effective date specified therein. Such date may be the last day of any calendar year but in no event may the contributions be so computed with respect to wages paid before January 1, 1957, in the case of an agreement or modification which is mailed or delivered by other means to the Secretary before January 1, 1962, or with respect to wages paid before the first day of the year in which the agreement or modification is mailed or delivered by other means to the Secretary if on or after January 1, 1962.

4. Section 404.1240 is amended by the insertion of a new paragraph (d) in place of the present paragraph (d) and by a revision of present paragraph (d) and the redesignation of this paragraph as paragraph (e). Section 404.1240 (d) and (e) as revised will read as follows

**§ 404.1240 Identification numbers.**

(d) *Unit numbers where contribution amounts are limited.* Where an agreement or modification of an agreement provides for the computation of con

tributions in the manner prescribed in § 404.1222a with respect to some but not all of the employees of any political subdivision of the State, special unit numbers will be assigned to the political subdivision, as required, for the purpose of identifying the employees of the political subdivision with respect to whose remuneration contributions are so computed. No special unit number will be assigned to a political subdivision in which the contributions based on the remuneration of all of the employees are computed in the manner prescribed in § 404.1222a.

(e) *Use.* The identification number (including coverage group numbers assigned to coverage groups and unit numbers assigned) shall be shown on the State's records, reports, returns, and claims to the extent required by §§ 404.1254, 404.1255(a), 404.1256, and 404.1263 and by the instructions relating to Forms OAR-S1, OAR-S2, OAR-S3, OAR-S4, and OAR-S11 to be used by States for reporting wages, adjustments, and contributions.

5. Section 404.1250 is amended to read as follows:

**§ 404.1250 Wage reports and contribution returns in general.**

(a) *Wage reports.* Every State which enters into an agreement shall make or cause to be made, with respect to individuals performing services in employment as employees in a coverage group included in an agreement, a wage report on Form OAR-S3 for each calendar quarter (whether or not wages are paid therein), beginning with the first calendar quarter with respect to which the agreement is effective, until it files a final report as required by the provisions of § 404.1252. Every State shall make such wage report on Form OAR-S3 with respect to employees of the State in each coverage group included in an agreement and shall obtain, with respect to employees in every other coverage group included in the agreement a complete and correct wage report on Form OAR-S3 for the employees in each such coverage group. The State shall prepare a recapitulation report, Form OAR-S2, identifying each political subdivision by the identification number assigned to each political subdivision and, where appropriate, identifying each political subdivision and each coverage group by the coverage group number and the payroll record unit number assigned to it, in accordance with instructions relating to Form OAR-S2, and shall file the original of the recapitulation report, along with the original of each wage report (Form OAR-S3), with the Department of Health, Education, and Welfare, Social Security Administration, Baltimore 35, Maryland.

(b) *Wage reports of remuneration for agricultural labor subject to \$100 wage limitation.* If any State which enters into an agreement shall, in accordance with section 218(c) (5) of the Social Security Act, exclude from such agreement with respect to any coverage group services the remuneration for which would be excluded from wages under paragraph (2) of section 209(h) of the Act, the

State shall include or cause to be included in the wage report on Form OAR-S3 and on any report of adjustments on Form OAR-S4 for such coverage group any remuneration paid in any calendar quarter for such services subject to the limitation on wages for such services in said section 209(h) (2) of the Act; and the State shall identify or cause to be identified on the wage report (Form OAR-S3) and on any report of adjustments (Form OAR-S4) the individuals in such coverage group performing such services, in accordance with instructions relating to Form OAR-S3 and Form OAR-S4.

(c) *Contribution returns.* The State shall also file with the Federal Reserve Bank, or any branch thereof, serving the district in which the State is located, a quarterly contribution return (Form OAR-S1), and shall accompany such return with payment of the amount of contributions due and payable. A Certificate of Deposit (Form OAR-S11) shall be filed in quadruplicate. It is not necessary that any of the copies of Form OAR-S11 be signed by the depositing officer of the State. Form OAR-S1 shall be securely stapled to the back of the triplicate copy of Form OAR-S11. Checks for such contributions shall be made payable to the Treasurer of the United States. A copy of the contribution return (Form OAR-S1) shall be attached to the recapitulation report (Form OAR-S2) filed by the State with the Department of Health, Education, and Welfare. For the purposes of reports and returns under the Act, the quarters shall each be 3 calendar months as follows: (1) January 1 to March 31, both dates inclusive; (2) from April 1 to June 30, both dates inclusive; (3) from July 1 to September 30, both dates inclusive; and (4) from October 1 to December 31, both dates inclusive.

(d) *Filing of wage reports and contribution returns with district directors of internal revenue.* (1) Where a State or any of its political subdivisions has in its employ individuals performing services for the State or a political subdivision of the State as members of a coverage group included under an agreement and such individuals also regularly perform services identical in nature in the employ of employers who are subject to the provisions of subchapter A or E of Chapter 9 of the Internal Revenue Code of 1939 and the corresponding provisions of the Internal Revenue Code of 1954 with respect to the wages paid by such employers for such services to such individuals, and where, with the approval of the Internal Revenue Service, the payment of the taxes and the filing of information returns required of employers under subchapter A or E of Chapter 9 of the Internal Revenue Code of 1939 and the corresponding provisions of the Internal Revenue Code of 1954 are made for all such employers by an agent appointed by them, such State may, with respect to such individuals, elect to permit the agent of such employers to file tax and information returns with, and to make payment thereon to, a district director of internal revenue in the manner and according to the conditions pre-

scribed in regulations of the Internal Revenue Service relating to the employees' tax and the employers' tax under subchapter A or E of Chapter 9 of the Internal Revenue Code of 1939 and the corresponding provisions of the Internal Revenue Code of 1954.

(2) Where the Secretary has been furnished with written evidence to the effect that a State has made such an election and that the Commissioner of Internal Revenue has agreed to permit a district director of internal revenue to accept and receive such contribution and information returns and payment of contributions, the filing of such tax and information returns with, and the payment of such contributions to, the district directors shall be deemed to be compliance with the requirements imposed upon the State by paragraphs (a) and (c) of this section, except that nothing contained in this paragraph shall relieve any such State of its obligations and responsibilities under its agreement and the regulations in this subpart relative to its liability for the payments required under its agreement.

6. Sections 404.1250a and 404.1250b are added immediately after present § 404.1250 to read as follows:

**§ 404.1250a Wage reports and contribution returns for employees performing services in more than one coverage group.**

(a) *Employee of State in more than one coverage group.* Where an individual performs services in employment as an employee of the State in more than one coverage group included in an agreement, the aggregate wages paid to such employee by the State, not in excess of \$3,600 paid in any calendar year prior to 1955, not in excess of \$4,200 paid in any calendar year after 1954 and prior to 1959, and not in excess of \$4,800 paid in any calendar year after 1958 by the State, shall be reported in the report filed for only one such coverage group, in such manner as may be specified in the agreement.

(b) *Employee of political subdivision in more than one coverage group.* Where an individual performs services in employment as an employee of a political subdivision of the State in more than one coverage group included in an agreement, the aggregate wages paid to such employee by the political subdivision, not in excess of \$3,600 paid in any calendar year prior to 1955, not in excess of \$4,200 paid in any calendar year after 1954 and prior to 1959, and not in excess of \$4,800 paid in any calendar year after 1958 by the political subdivision, shall be reported in the report filed for only one such coverage group, in such manner as may be specified in the agreement.

(c) *Employee of State and of one or more political subdivisions.* Where an individual performs services in employment as an employee of the State in one or more coverage groups included in an agreement and as an employee of one or more political subdivisions of a State in one or more coverage groups included in an agreement and the State agreement does not provide for the computa-

tion of contributions pursuant to section 218(e)(2); the aggregate wages paid to such employee by the State, not in excess of \$3,600 paid in any calendar year prior to 1955, not in excess of \$4,200 paid in any calendar year after 1954 and prior to 1959, and not in excess of \$4,800 paid in any calendar year after 1958 by the State, shall be reported by the State in accordance with paragraph (a) of this section, and the aggregate wages paid to such employee by each political subdivision of the State, not in excess of \$3,600 paid in any calendar year prior to 1955, not in excess of \$4,200 paid in any calendar year after 1954 and prior to 1959, and not in excess of \$4,800 paid in any calendar year after 1958 by each such political subdivision, shall be reported by each political subdivision in accordance with paragraph (b) of this section.

(d) *Employee of more than one political subdivision.* Where an individual performs services in employment as an employee of one political subdivision in one or more coverage groups included in an agreement and as an employee of one or more other political subdivisions in one or more coverage groups included in an agreement and the State agreement does not provide for the computation of contributions pursuant to section 218(e)(2), the aggregate wages paid to such employee by each such political subdivision, not in excess of \$3,600 paid in any calendar year prior to 1955, not in excess of \$4,200 paid in any calendar year after 1954 and prior to 1959, and not in excess of \$4,800 paid in any calendar year after 1958 by each such political subdivision, shall be reported by each such political subdivision in accordance with paragraph (b) of this section.

(e) *Employees performing services for more than one employer; section 218(e)(2) applicable—(1) Employee of State and one or more political subdivisions.* Where an agreement provides for the computation of contributions for any calendar year in accordance with section 218(e)(2) of the Act with respect to an individual who performs services in employment as an employee of the State in one or more coverage groups included in an agreement and as an employee of one or more political subdivisions of such State in one or more coverage groups included in an agreement, the aggregate wages paid to such employee by the State and the political subdivisions, not in excess of \$4,200 paid in any such calendar year after 1956 and prior to 1959, and not in excess of \$4,800 paid in any such calendar year after 1958, shall be reported. The wages shall be reported by the State and each such political subdivision in accordance with § 404.1255 for the calendar quarter in which paid until the maximum amount for each such calendar year has been reached. In determining when the maximum amount has been reached for any such calendar year, the State shall consider only the wages with respect to which it has been authorized by the agreement to compute the contributions in accordance with section 218(e)(2).

(2) *Employee of more than one political subdivision.* Where an agreement provides for the computation of

contributions for any calendar year in accordance with section 218(e)(2) of the Act with respect to an individual who performs services in employment as an employee of one political subdivision of the State in one or more coverage groups included in an agreement and as an employee of one or more other political subdivisions of the State in one or more coverage groups included in an agreement, the aggregate wages paid to such employee by such political subdivisions, not in excess of \$4,200 paid in any such calendar year after 1956 and prior to 1959, and not in excess of \$4,800 paid in any such calendar year after 1958, shall be reported. The wages shall be reported by each such political subdivision in accordance with § 404.1255 for the calendar quarter in which paid until the maximum amount for each such calendar year has been reached. In determining when the maximum amount has been reached for any such calendar year, the State shall consider only the wages with respect to which it has been authorized by the agreement to compute the contributions in accordance with section 218(e)(2).

§ 404.1250b *Filing of single wage report where individual is jointly employed by more than one employer.*

Where the State and any of its political subdivisions or any two or more political subdivisions jointly employ any individuals to perform services in employment, the aggregate wages paid to such individuals by the State and any of its political subdivisions, or by any two or more political subdivisions, as the case may be, may, upon request by the State and with the approval of such request by the Secretary, be reported by an agent duly appointed to file such reports if:

(a) There is included in the agreement each of the coverage groups of employees of the State and its political subdivisions, or of two or more political subdivisions, as the case may be, of which such individuals are members;

(b) There is uniformity with respect to such coverage groups in the effective dates of coverage and both in the services covered and the services excluded from coverage;

(c) There is filed by such agent one wage report for each calendar quarter on Form OAR-S3, which includes the aggregate of the wages paid to such individuals as employees of the State and as employees of any of its political subdivisions, or as employees of any two or more political subdivisions, as the case may be. In computing the aggregate wages to be reported, there shall be included in the wage report the wages (not in excess of \$4,200 paid in any calendar year subsequent to 1954 and prior to 1959, and not in excess of \$4,800 paid in any calendar year after 1958) paid or caused to be paid by the State and the wages (not in excess of \$4,200 paid in any calendar year subsequent to 1954 and prior to 1959, and not in excess of \$4,800 paid in any calendar year after 1958) paid or caused to be paid by each political subdivision of the State, or, if the individual is not employed by the State, the wages (not in excess of \$4,200 paid in

any calendar year subsequent to 1954 and prior to 1959, and not in excess of \$4,800 paid in any calendar year after 1958) paid or caused to be paid by each political subdivision of the State by which such individual is employed. (For provisions relating to the furnishing of wage statements to employees see § 404.1230.)

(d) There is included on the wage report (Form OAR-S3) the name and identification number of the State and of each political subdivision of the State by which the individual is employed, or if the individual is not employed by the State, the name and identification number of each such political subdivision and the name and address and the identification number of the agent by which the wage reports are filed.

7. Section 404.1256(a) is revised to read as follows:

#### § 404.1256 *Records.*

(a) *Records of States.* Every State which enters into an agreement shall keep or cause to be kept accurate record of all remuneration (whether in cash or in a medium other than cash) paid to employees performing services in employment in a coverage group included in an agreement after the effective date of such agreement, for services covered by such agreement. Such records may be maintained by such State, or, with respect to employees of any political subdivision thereof, by such political subdivision. No particular form is prescribed for keeping the records required by this paragraph. Each State shall use or cause to be used such forms and systems of accounting as will enable the Secretary to ascertain whether the contributions for which the State is liable are correctly computed and paid. Where contributions attributable to the remuneration of an employee are computed by a State in accordance with § 404.1222a, the State shall use or cause to be used procedures of record keeping or system of accounting from which the State can ascertain currently accurate information as to the amount of wages subject to such computation received by such employee from all political subdivisions by which he is employed in any calendar year. Such records shall show with respect to each employee:

(1) The name, address, and account number of the employee (see § 404.124 relating to account numbers) and such additional information with respect to the employee as is required by § 404.1243(a) when the employee does not show his account number card as issued to him by the Social Security Administration.

(2) The total amount (including any sum withheld therefrom as contribution or for any other reason) and date of each remuneration payment and the period of services covered by such payment.

(3) The amount of such remuneration payment which constitutes wages (see § 404.1026 for wages and § 404.1027 for exclusion from wages); and

(4) The amount of employees' contribution, if any, withheld or collected with respect to such payment, and if collected at a time other than the time such

payment was made, the date collected. If the total remuneration payment (subparagraph (2) of this paragraph) and the amount thereof which is subject to contribution (subparagraph (3) of this paragraph) are not equal, the reason therefor shall be made a matter of record. Accurate records of the details of each adjustment or settlement made pursuant to § 404.1261 or § 404.1262 shall also be kept.

8. Section 404.1262 is amended to read as follows:

**§ 404.1262 Adjustment of overpayment of contributions.**

(a) *In general.* If a State pays more than the correct amount of contributions, the State shall cause the adjustment of the overpayment by reporting such amount either as an adjustment of total contributions due with the first quarterly wage report filed after notification of the overpayment by the Social Security Administration or as a single adjustment of total contributions due with any contribution return filed prior to the filing of such quarterly wage report. Such report or return shall include, or be accompanied by, a statement of the reason for the overpayment and of the reason why adjustment is in order.

(b) *Overpayment due to overreporting of wages; in general.* If the overpayment is due to an overreporting of the amount of wages paid to one or more employees during one or more calendar quarters, and such overpayment is not adjusted in accordance with paragraph (a) of this section, a report on Form OAR-S4 showing the amount or amounts of wages previously reported for the quarter or quarters and the correct amount or amounts of wages, if any, paid to such employee in such calendar quarter or quarters, shall be filed upon ascertainment of the error by the State, together with a copy of the Form OAR-S1 prepared in accordance with the instructions contained thereon. Such report shall include, or be accompanied by, a statement of the reason why the original reporting of wages was incorrect.

(c) *Refund of overpayment due to overreporting of wages; section 218(e) applicable—(1) In general.* If the overreporting of the amount of wages paid to one or more employees during one or more calendar years is due to a computation of contributions in accordance with § 404.1222a for a year or years prior to the year in which the agreement or modification providing for such computation is entered into or if the overreporting is due to a failure to compute contributions as required in accordance with § 404.1222a, the State shall adjust the overpayment by a report on Form OAR-S4 in accordance with the procedures in paragraph (b) of this section. An overpayment due to an overreporting of wages paid to one or more employees during one or more calendar quarters which does not result from the computation of contributions or a failure to compute contributions in accordance with § 404.1222a shall also be adjusted by the State on Form OAR-S4 in accordance with paragraph (b) of this section.

(2) *Refund of overpayment due to overreporting of wages; section 218(e) applicable—(2) In general.* If the overreporting of the amount of wages paid to one or more employees during one or more calendar years is due to a computation of contributions in accordance with § 404.1222a for a year or years prior to the year in which the agreement or modification providing for such computation is entered into or if the overreporting is due to a failure to compute contributions as required in accordance with § 404.1222a, the State shall adjust the overpayment by a report on Form OAR-S4 in accordance with the procedures in paragraph (b) of this section. An overpayment due to an overreporting of wages paid to one or more employees during one or more calendar quarters which does not result from the computation of contributions or a failure to compute contributions in accordance with § 404.1222a shall also be adjusted by the State on Form OAR-S4 in accordance with paragraph (b) of this section.

If the adjustment of such an overpayment will result in an underreporting of wages for any employee by the State or any political subdivision, the report which adjusts the overpayment shall be accompanied by an adjustment report prepared in accordance with § 404.1261 with respect to each such underreporting. If the adjustment of such an overpayment will not result in an underreporting of wages for any employee by the State or any political subdivision, the report which adjusts the overpayment shall include, or be accompanied by, a statement that the adjustment of the overpayment will not result in any such underreporting.

(2) *Extent of refund or credit.* If the State has collected or caused to be collected contributions from employees with respect to such overpayment in amounts which exceed the amount of taxes which would have been imposed by section 3101 of the Internal Revenue Code of 1954 if the services covered under the agreement were performed in the employ of one employer and constituted employment as defined in section 3121 of such code and Forms W-2 have been issued to the employees which reflect such excess collection of contributions with respect to an amount of wages which is being adjusted, the State's claim for refund or credit shall be limited to the amounts overpaid which are equivalent to the taxes which would have been imposed by section 3111 of the Internal Revenue Code of 1954 if the services constituted employment as defined in section 3121 of such code. In this event the State shall not amend or cause to be amended any previously issued employee's statement on Form W-2 for the purpose of conforming the amounts of wages on such previously issued statements with the amounts as adjusted in accordance with the provisions of this section. (See § 404.1266 relating to adjustment of employee contributions.) If (i) the State has not collected or caused to be collected such excess contributions from employees with respect to such overpayment and the Forms W-2 which have been issued to such employees show only the amount of contributions actually collected from employees with respect to an amount of wages which is being adjusted, or (ii) such excess contributions have been collected from employees with respect to such overpayment but Forms W-2 which reflect such excess collection have not yet been issued with respect to an amount of wages which is being adjusted, the State may claim a refund or credit with respect to the amounts overpaid equivalent to the taxes which would have been imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if such services had constituted employment as defined in section 3121 of such code. Where the State's claim for refund or credit is for this total amount of the overpayment, the adjustment report shall include, or be accompanied by, a statement that such excess contributions have not been collected from employees, or, where such excess contributions have been collected, that Forms W-2 have not yet been issued and that such forms when issued will

show the correct amount of employee contributions.

9. Section 404.1266 is amended to read as follows:

**§ 404.1266 Adjustment of employee contributions.**

(a) *In general.* If a State deducts or causes to be deducted employees' contributions with respect to remuneration paid to employees in coverage groups included in an agreement with the Secretary of Health, Education, and Welfare, the amount deducted or caused to be deducted from the remuneration of an employee or any correction in the undercollection or overcollection of such amount, is a matter for settlement between the employee and the State or political subdivision, as the case may be. Any correction of an undercollection or overcollection of an employee's contribution shall be shown on statements furnished to the employee in accordance with § 404.1230. Where, however, statements have been issued to an employee on Forms W-2 and the State submits an adjustment of an overpayment in accordance with § 404.1262(c) with respect to which the State's claim for refund or credit is for less than the total amount of the overpayment, the previously issued Forms W-2 shall not be corrected to reflect such adjustment.

(b) *Multiple employment involved.* If wages are paid to an employee during a calendar year by the State and one or more political subdivisions thereof or by more than one political subdivision and the amount of contributions collected or caused to be collected from the employee with respect to such wages exceeds the amount of tax which would have been imposed by section 3101 of the Internal Revenue Code of 1954 if the services were performed for one employer and constituted employment as defined in section 3121 of such code, the employee may claim a refund or credit of that part of such contributions which exceeds the amount of such tax by complying with the provisions of section 31(b) and section 6413(c) of the Internal Revenue Code of 1954.

[F.R. Doc. 61-11182; Filed, Nov. 24, 1961; 8:49 a.m.]

## FEDERAL AVIATION AGENCY

[14 CFR Part 602]

[Airspace Docket No. 61-FW-80]

### JET ROUTES

#### Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 602.100 of the regulations of the Administrator, the substance of which is stated below.

Jet Routes Nos. 75, 85 and 89 presently extend in part from the Miami, Fla., VOR via the intersection of the Miami 316° and the Gainesville, Fla., VOR 167° True radials to Gainesville. The Federal Aviation Agency has under consideration alteration of these jet routes as follows:

1. Redesignate the Miami-Gainesville segment of Jet Routes Nos. 85 and 89 from Miami, Fla., via the intersection of the Miami 316° and the Lakeland, Fla., 154° True radials; Lakeland; to Gainesville, Fla.

2. Redesignate the Miami-Gainesville segment of Jet Route No. 75 from Miami, Fla., via the intersection of the Miami 296° and the Lakeland, Fla., 174° True radials; Lakeland; to Gainesville, Fla.

These alterations would increase the air traffic flow capabilities into and from the Miami terminal area by providing an additional departure route for separating climbing and descending aircraft northwest of Miami. In addition, this alteration would realign these segments of Jet Routes Nos. 75, 85 and 89 to overlie the intermediate and low altitude route structures which would improve transition procedures in the Miami terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Manager, Southwest Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the *FEDERAL REGISTER* will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be

submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on November 17, 1961.

CHARLES W. CARMODY,  
Chief, Airspace Utilization Division.

[F.R. Doc. 61-11164; Filed, Nov. 24, 1961;  
8:46 a.m.]

## INTERSTATE COMMERCE COMMISSION

[ 49 CFR Part 73 ]

[No. 3666; Order 49]

### TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

#### Certain Portable and Cargo Tanks; Hearing on Petitions

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 9th day of November A.D. 1961.

It appearing, that by an order dated October 30, 1961, the Commission, Division 3, granted the petitions of the National Tank Truck Carriers, Inc., and Phillips Petroleum Company insofar as they seek oral hearing respecting a proposal to amend the Commission's regulations governing the transportation of explosives and other dangerous articles by permitting the use of certain portable and cargo tanks having a minimum design pressure of 250 psig, for anhydrous ammonia;

It further appearing, that the above-entitled proceeding was assigned for hearing on December 11, 1961, at 9:30 o'clock a.m., United States Standard Time at the Office of the Interstate Commerce Commission, Washington, D.C., before Examiners Henry J. Vinskey and Robert R. Boyd;

And it further appearing, that in order that a complete and informative record may be developed:

*It is ordered*, That the Bureau of Inquiry and Compliance be, and it is hereby, authorized and directed to participate as a party herein and to present evidence and make representations on the issues involved; and that notice hereof be given to the general public by posting a copy of this order in the office of the Secretary of the Commission at Washington, D.C., for public inspection, and by filing a copy with the Director of the Office of the Federal Register for publication in the *FEDERAL REGISTER*.

By the Commission, Division 3.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 61-11178; Filed, Nov. 24, 1961;  
8:48 a.m.]

# Notices

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

#### FEDERATION OF MALAYA

#### Finding Regarding Foreign Social Insurance and Pension System

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) authorizes and requires the Secretary of Health, Education, and Welfare to find whether a foreign country has in effect a social insurance or pension system which is of general application in such country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death; and whether individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in him by the Secretary of Health, Education, and Welfare, the Commissioner of Social Security has considered evidence relating to the social insurance or pension system of the Federation of Malaya, from which evidence it appears that the Federation of Malaya's social insurance or pension system does not provide for the payment of periodic benefits or their actuarial equivalent.

Accordingly, it is hereby determined and found that the Federation of Malaya does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

[SEAL] W. L. MITCHELL,  
*Commissioner of Social Security.*

NOVEMBER 16, 1961.

Approved: November 20, 1961.

WILBUR J. COHEN,  
*Acting Secretary of Health,  
Education, and Welfare.*

[F.R. Doc. 61-11180; Filed, Nov. 24, 1961;  
8:48 a.m.]

#### SINGAPORE

#### Finding Regarding Foreign Social Insurance and Pension System

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) authorizes and requires the Secretary of Health, Education, and Welfare to find whether a foreign country has in effect a social insurance or pension system which is of general application in such country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death; and whether individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive

such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in him by the Secretary of Health, Education, and Welfare, the Commissioner of Social Security has considered evidence relating to the social insurance or pension system of Singapore, from which evidence it appears that Singapore does not have a social insurance or pension system of general application which pays periodic benefits or the actuarial equivalent thereof.

Accordingly, it is hereby determined and found that Singapore does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

[SEAL] W. L. MITCHELL,  
*Commissioner of Social Security.*

NOVEMBER 16, 1961.

Approved: November 20, 1961.

WILBUR J. COHEN,  
*Acting Secretary of Health,  
Education, and Welfare.*

[F.R. Doc. 61-11181; Filed, Nov. 24, 1961;  
8:49 a.m.]

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### SECRETARY OF THE ARMY

#### Delegation of Authority

The Deputy Secretary of Defense approved the following on November 15, 1961: Settlement of Claims Under the Provisions of the Federal Tort Claims Act (28 U.S.C. 2671-2680) (Delegation to the Secretary of the Army).

Pursuant to the authority vested in the Secretary of Defense, any claims arising from acts of civilian employees of the Department of Defense components, exclusive of the Departments of the Army, Navy, and Air Force, which may be settled under the provisions of the Federal Tort Claims Act of June 25, 1948, as amended, may be settled retroactively to November 15, 1959, by any authorities appointed under the regulations of the Secretary of the Army to settle claims against that Service.

MAURICE W. ROCHE,  
*Administrative Secretary.*

[F.R. Doc. 61-11159; Filed, Nov. 24, 1961;  
8:45 a.m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 13196 (Agreement CAB 13700);  
Order E-17743]

### MEMBERS OF NATIONAL AIR TAXI CONFERENCE, INC.

#### Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of November 1961.

There has been filed with the Board for approval under section 412 of the Federal Aviation Act of 1958 (the Act), as amended, an agreement among various air taxi operators which establishes the by-laws of the National Air Taxi Conference, Inc. (NATC) and the code of operating practices and ethics by which the members of NATC agree to be bound.<sup>1</sup>

Briefly, the purposes of NATC are to promote, develop, and improve air taxi operations; to coordinate the service of its members with those of other air carriers; and to act as a trade association of its members and, as such, perform for its members those services which they can better perform as a group than individually. Membership of NATC consists of (1) regular members, which include qualified air taxi operators and certificated air carriers (both route and supplemental) having a fixed base division utilizing air taxi service aircraft units, and (2) associate members, which include persons or establishments, other than air carriers heretofore mentioned, engaged in pursuits related directly or indirectly to aeronautical activities. Regular members are required to hold valid air carrier operating certificates; to have available for their exclusive use at least two aircraft in the air taxi category, at least one of which shall be four-place or larger; to maintain adequate passenger waiting facilities where municipal facilities are not available, sufficient personnel, and hangar space adequate to store aircraft used in air taxi work; to have maintenance facilities or provide therefor; to file certain statistical reports; and to furnish the conference with a credit report prepared by a recognized credit rating institution which reflects at least "reasonable" economic strength and stability. In addition, any applicant for membership, its immediate predecessor, or one of its principal officers must have been engaged in the direct air transportation of passengers for hire for a period of three consecutive years, having derived a "substantial" portion of its business therefrom, and must agree to abide by the NATC code of operating practices and ethics.

The agreement further provides that all members shall be notified of the name and operating location of each new applicant; and that any "interested or affected" member may present to the conference secretary any information bearing on the application. When such information is presented, the applicant "shall also be afforded a similar opportunity."

Applicants for associate membership, as described above, must file an application of unspecified form or content with the executive secretary, accompanied by

<sup>1</sup> Although air taxi operators, pursuant to Part 298, of the Board's Economic Regulations, are exempt from section 412 of the Act, NATC has decided to seek approval of the agreement in the interest of obtaining antitrust immunity pursuant to section 414 of the Act.

a check covering contributions approved by the board of directors.

Consideration of new applicants is the responsibility of the NATC board of directors. The by-laws specifically provide that the board may not admit a new member where there is a certified member "located on the applicant's airport of domain" or the applicant's airport of domain has a branch of air taxi operated by a certified member, except that the board in its discretion may allow more than one operator to be based at an airport if it shall find, after notice to the existing member, that he is failing to provide a service that is within the public requirements for the area served. The executive secretary is required to keep complete records, including the minutes of meetings of the board of directors, on all membership applications, and to promptly notify interested parties in writing of any conference action regarding membership applications. Such written notice is required to contain a brief statement of the reasons for such conference action.

Subject to determination by the board of directors, membership in the conference may be terminated upon (1) failure to submit dues and contributions within a specified period,<sup>2</sup> (2) failure to maintain minimum requirements for membership, (3) failure to abide by the code of operating practices and ethics, and (4) engaging in conduct against the interests of the conference or any of its members.

Otherwise the by-laws set forth procedures relating to meetings of members,<sup>3</sup> the election of officers and directors, and their duties, the creation of certain committees, and the payment of fees, dues and contributions.

The code of operating practices and ethics sets forth standards relating to operations, employee conduct, passenger handling, airport facilities and safety by which the members agree to be bound.

Counsel for NATC has stated that the conference now has 155 members who operate from 172 locations throughout the United States; that the by-laws and code were adopted as a means of self-regulation and to attain a maximum degree of protection for the public; that because of the rigid membership standards it has not been possible to admit to membership all of the air taxi operators who apply; that NATC's membership requirements have been designed primarily for the protection and convenience of the traveling public; and that the operating efficiency of its mem-

bers is due in part to the organization's efforts to "curtail wasteful and harmful competitive practices."

After examining the agreement, the Board has concluded that it is a cooperative working arrangement among air carriers affecting air transportation within the meaning of section 412(a) of the Act, and thus is subject to Board action if the parties to the agreement desire to be relieved from the operations of the antitrust laws pursuant to section 414 of the Act. In determining whether the agreement should be approved or disapproved under section 412(b) of the Act, the Board must determine whether it is adverse to the public interest or in violation of the Act. Among the criteria of public interest are those enumerated in section 102 of the Act. In addition, in determining whether a particular agreement should be approved under section 412, the Board must take into consideration applicable antitrust laws and consider the agreement's probable impact on the air transportation system as a whole.

The Board has further concluded that the agreement embodies certain matters which may be repugnant to established antitrust principles. The first problem arises with respect to the provision that in considering applications for membership in the conference, the board of directors may not admit an applicant if there is a certified member located on the applicant's airport of domain or if the applicant's airport of domain has a branch of air taxi operated by a certified member, except that the board of directors in its discretion may allow more than one operator to be based at an airport if it shall find after notice to the existing member that he is failing to provide service that is within the public requirements.

As stated above, NATC's membership consists of 155 air taxi operators who operate from 172 locations throughout the United States. Federal Aviation Agency records, as of July 1, 1961, show that 2,695 authorizations have been issued to air taxi operators, 1,667 of which are for single-engine operations, 914 for multi-engine operations, and 114 for helicopter operations. Thus, the membership of NATC is comprised of but a small minority of the authorized air taxi operators. Nevertheless, to the Board's knowledge, NATC is the only organization of air taxi operators in existence, and the purposes of this organization, as discussed above, are not insignificant. Illustrative of NATC's dominant position in the air taxi field is the fact that the members of NATC are parties to an agreement with the members of the Air Traffic Conference of America (ATC)<sup>4</sup> pursuant to which the ATC members agree, subject to various terms and con-

ditions, to cooperate with the NATC members to provide nationwide air service to communities not served directly by any of the ATC members. Thus NATC members are placed in a preferred position with respect to traffic destined to or from points served by the certificated route air carriers. The exclusionary provisions of the NATC by-laws therefore appears to preclude non-NATC members from a substantial segment of the traffic desiring to utilize air taxi service. The Board therefore tentatively finds that the provision is adverse to the public interest and in violation of the Act.

The second question raised by the instant agreement goes to the matter of termination of membership in the organization. As noted above, the bylaws provide that, as determined by the board of directors, membership in the conference shall cease upon, inter alia, a member's engaging in conduct against the interests of the conference or any of its members. This provision is so broad and indefinite as to be susceptible to arbitrary and non-uniform application. For example, the provision might be interpreted in such manner as to cause cancellation of an operator which engages in normal competitive practices "against the interests" of another member operator. The Board therefore tentatively finds that such provision is adverse to the public interest and in violation of the Act.<sup>5</sup>

An additional problem arises with respect to the provision that all members of the conference shall be notified of the name and operating location of new applicants, that any interested or affected member will be afforded an opportunity to present information bearing on an application for membership, and that if any member elects to avail himself of the opportunity to present information to the board of directors, the applicant shall be afforded a similar opportunity. Where a member presents information in opposition to a new applicant, it is unclear whether the applicant would receive a copy of such presentation. Since this procedure, as presently expressed could unduly restrict membership in the conference, the Board believes that the provision may be adverse to the public interest.

We turn now to the matter of associate membership in NATC. Counsel for

<sup>2</sup> Annual dues for regular membership are an amount to be determined by conference resolution for each such period. Where a member operates one or more branches, the annual dues apply to each branch of such member. The Board desires that the conference resolution(s) establishing annual dues be submitted.

<sup>3</sup> Five or more of the regular members represented in person shall be a quorum for any and all purposes.

<sup>4</sup> Agreement CAB 5064, dated December 5, 1950, as amended, superseded by Agreement CAB 8308, effective January 1, 1954, approved by Orders E-6404, dated May 7, 1952, and E-8906, dated January 21, 1955, respectively.

<sup>5</sup> The Board has also noted that a membership applicant must show at least "reasonable" economic strength and stability and must have derived a "substantial" portion of its business from the direct air transportation of passengers for hire. These provisions also appear to be broad and indefinite and therefore susceptible to arbitrary and non-uniform application. The Board, therefore, believes that these standards might be defined more objectively. Thus, the Board believes it to be desirable that NATC submit a statement setting forth the criteria considered in determining these standards.

the conference advises that it has no associate members at present and has had none in the past. Nevertheless, the Board believes that acceptance by the air carrier members of non-air taxi operator members, which the Board has no power to regulate, may create difficulties unforeseeable at this time since the Board is unaware of the types of companies which may fall within this category of membership. Therefore, the Board tentatively finds that associate members should not be accepted by NATC without prior Board approval.

Except for the foregoing, the Board tentatively finds that the agreement is not adverse to the public interest or in violation of the Act. However, the Board deems it necessary that any approval of the agreement include a condition that the minutes maintained by the NATC board of directors of its meetings at which present or future members' qualifications for membership are considered or reconsidered contain a full statement of every basis for the findings with respect to each element of the standards of qualification with a summary of the supporting evidence and record of the votes of each member. The Board believes that such minutes should be available for its inspection, and that files should be maintained of any material considered by the board of directors directly or indirectly in making its decision. The Board also believes that any order of approval of the instant agreement itself should not extend to any resolution of NATC or any other actions taken by its members through NATC falling within the scope of section 412 of the Act.

On the basis of the foregoing, the Board tentatively finds that the agreement is not adverse to the public interest or in violation of the Act, and should be approved if such approval is made subject to the conditions set forth below. However, before issuing a final order of approval herein, the Board will direct the members of NATC and any other interested persons to show cause why the agreement should not be approved under section 412 subject to the conditions specified hereinafter.

Accordingly, it is ordered:

1. That a copy of this order be served upon the members of NATC;

2. That the members of NATC\* and any other interested persons be and they hereby are directed to show cause why Agreement CAB 13700 should not be approved subject to the following conditions:

a. That the existence of a certified member or a branch of a certified member at an applicant's airport of domain shall not be considered a criterion bearing on the admission of an applicant for membership in NATC;

\* It should be noted that further revision of the by-laws to comply with the requirements of Part 263 of the Board's Economic Regulations will be necessary should NATC itself desire to participate in this proceeding.

† Subject to the information received in response to the comments set forth in footnotes 2 and 5 above, the Board may decide that its action on the agreement should contain further conditions.

b. That no person shall have his membership in NATC terminated for engaging in reasonable competitive practices against the interests of any other NATC member;

c. That in instances where an NATC member presents information in opposition to a new member applicant, the applicant shall be served a copy of such information and afforded an opportunity to comment thereon;

d. That NATC shall not accept associate members into its organization except upon prior approval of the Board;

e. That the NATC board of directors shall maintain minutes of its meetings where existing members' and new applicants' qualifications are considered or reconsidered, containing a full statement of every basis for the findings with respect to each element of the standards of qualification, with a summary of the supporting evidence and record of the votes of each member; make such minutes available to the Board for inspection upon request; and maintain files of any material considered by the board of directors directly or indirectly in making its decision;

f. That the Board's approval of the agreement shall not extend to any resolution of the members of NATC or other action taken by such members through NATC falling within the scope of section 412 of the Act.

3. That if there is any objection to the tentative findings herein, written answer and supporting documents must be filed within 30 days after the date of service of this order.

4. That this order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

[F.R. Doc. 61-11186; Filed, Nov. 24, 1961;  
8:50 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 13205 etc.; FCC 61-1362]

FRANCIS M. FITZGERALD ET AL.

### Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Francis M. Fitzgerald, Greensboro, North Carolina, requests 1510 kc, 1 kw, (250 w-CH), Day, Docket No. 13205, File No. BP-13979; Ralph D. Epperson and Earlene S. Epperson, d/b as Frederick County Broadcasters, Winchester, Virginia, requests 1480 kc, 500 w, DA, Day, Docket No. 13624, File No. BP-12531; John Laurino, tr/as Virginia Regional Broadcasters, Chester, Virginia, requests 1410 kc, 5 kw, Day, Docket No. 14382, File No. BP-13752; Stuart W. Epperson, Wakefield, Virginia, requests 1410 kc, 1 kw, Day, Docket No. 14383, File No.

\* Such comments shall conform with the general requirements of the Board's Rules of Practice in Economic Proceedings.

BP-13754; York-Clover Broadcasting Company, Incorporated (WYCL), York, South Carolina, has 1580 kc, 250 w, Day, requests 1540 kc, 1 kw, Day, Docket No. 14384, File No. BP-13898; Harry A. Epperson, Jr., Mt. Holly, North Carolina, requests 1520 kc, 10 kw, (1 kw-CH), Day, Docket No. 14385, File No. BP-14203; Boyce J. Hanna, East Gastonia, North Carolina, requests 1510 kc, 5 kw, (500 w-CH), Day, Docket No. 14386, File No. BP-14237; John Blake, James H. Lee and James W. Harman, Jr., d/b as Lee-Blake Broadcasting Company, Spartanburg, South Carolina, request 1520 kc, 1 kw, Day, Docket No. 14387, File No. BP-14242; Wilkes Broadcasting Company, Mocksville, North Carolina, requests 1520 kc, 5 kw, (1 kw-CH), Day, Docket No. 14388, File No. BP-14288; E. Raymond Parker, Gaffney, South Carolina, requests 1500 kc, 1 kw, (250 w-CH), Day, Docket No. 14389, File No. BP-14301; Ridsen Allen Lyon, Charlotte, North Carolina, requests 1540 kc, 1 kw, Day, Docket No. 14390, File No. BP-14661; Stuart W. Epperson, Winston-Salem, North Carolina, requests 1500 kc, 1 kw, DA-D, Docket No. 14391, File No. BP-14909; James P. Poston, Kernersville, North Carolina, requests 1510 kc, 1 kw, (250 w-CH), Day, Docket No. 14392, File No. BP-14918; for construction permits.

1. The Commission has before it for consideration the above-captioned and described applications, twelve seeking authorizations for new standard broadcast stations and the thirteenth requesting a major change in the facilities of Station WYCL, York, South Carolina. The above-captioned applications are divided into the following three distinct groups on the basis of the different frequencies requested:

Group A—the application requesting 1480 kilocycles:

BP-12531, Frederick County Broadcasters.

Group B—two applications requesting 1410 kilocycles:

BP-13752, Virginia Regional Broadcasters.  
BP-13754, Stuart W. Epperson.

Group C—ten applications interlinked by interference problems requesting operations on 1500, 1510, 1520 and 1540 kilocycles:

BP-13979, Francis M. Fitzgerald.  
BP-13898, York-Clover Broadcasting Company, Incorporated (WYCL).  
BP-14203, Harry A. Epperson, Jr.  
BP-14237, Boyce J. Hanna.  
BP-14242, Lee-Blake Broadcasting Co.  
BP-14288, Wilkes Broadcasting Co.  
BP-14301, E. Raymond Parker.  
BP-14661, Ridsen Allen Lyon.  
BP-14909, Stuart W. Epperson.  
BP-14918, James P. Poston.

The Epperson applications. 2. Concurrent consideration of these otherwise diverse groups is required by reason of a common multiple ownership question pertaining to four of the thirteen applications—one or more in each subgroup—which have been filed by members of the immediate Epperson family. The immediate Epperson family (composed of Harry A. Epperson, Sr. and his three sons, Harry A., Jr., Ralph, and Stuart) have additional standard broadcast interests as shown below:

Individual	Percent ownership	Call	Location	Power	Frequency
Harry A. Epperson, Sr.-----	100	WBRG-----	Lynchburg, Va.-----	5 kw-----	1050 kc.
	100	WPNC-----	Plymouth, N.C.-----	1 kw-----	1470 kc.
	100	WLBS-----	Lawrenceville, Va.-----	500 w-----	580 kc.
	100	WRAA-----	Luray, Va.-----	1 kw-----	1330 kc.
Harry A. Epperson, Jr.-----	100	WPVA-----	Petersburg-Colonial Heights, Va.-----	5 kw-----	1290 kc.
	100	WLLY-----	Wilson, N.C.-----	1 kw-----	1350 kc.
Stuart W. Epperson-----	100	WKBA-----	Vinton, Va.-----	1 kw-----	1550 kc.
Ralph Epperson-----	100	WPAQ-----	Mt. Airy, N.C.-----	10 kw-----	740 kc.
	(*)	WPMH-----	Portsmouth, Va.-----	5 kw-----	1010 kc.

\*Ralph Epperson and his wife, Earlene Epperson, have entered into a merger agreement whereby they will acquire 50 percent of a new corporate licensee of WPMH. The other 50 percent will be owned by D. D. Cameron, to whom the CP for WPMH was granted upon approval by the Commission of the aforementioned merger agreement. An application (File No. BAP-555) for Commission consent to an assignment of the license of WPMH which will permit a consummation of the merger agreement was filed on October 20, 1961.

3. All existing stations and pending applications owned by the Epperson family are in Virginia and North Carolina in a roughly triangular area bounded to the North by Winchester, Virginia; to the Southwest by Mt. Holly, North Carolina, and to the Southeast by Plymouth, North Carolina. The longest side of this triangle, running Northeastward from Mt. Holly, North Carolina to Winchester, Virginia, is approximately 325 miles long. On the basis of these extensive family holdings within a relatively limited area, a substantial question obtains as to whether a grant of one or more of the four subject Epperson applications would result in a concentration of control of standard broadcasting in a manner inconsistent with the public interest, convenience, or necessity, in contravention of § 3.35(b) of the Commission's rules.

4. In addition, the Commission notes that: (a) The entire normally protected service area of Stuart W. Epperson's subject proposal for Winston-Salem, North Carolina would lie within the normally protected service area of Station WPAQ, Mt. Airy, North Carolina, owned by Ralph Epperson; and (b) a substantial overlap of primary service areas would occur between Stuart W. Epperson's proposal for Wakefield, Virginia and Station WPVA, Colonial Heights-Petersburg, Virginia, owned by Harry A. Epperson, Jr. Moreover, substantial overlap would occur between the Stuart Epperson Wakefield proposal and Station WPMH, Portsmouth, Virginia, 50 percent of which is to be acquired by Ralph and Earlene Epperson under the terms of the outstanding merger agreement noted above. In view of these facts, a substantial question obtains as to whether a grant of either subject application of Stuart W. Epperson would be in contravention of § 3.35(a) of the Commission's rules.

5. The Commission is of the opinion that the necessary evidentiary determinations with regard to these questions may most expeditiously be made through concurrent consideration of the four above-captioned Epperson applications. Accordingly, pursuant to § 1.106(a)(1) of the Commissions Rules, the Epperson applications—and other timely filed applications involving interference with an Epperson application—will be consolidated in a single hearing proceeding. In addition to the application for a new standard broadcast station at Mt. Holly, North Carolina (BP-14203), Harry A. Epperson, Jr. has on file an application

(BP-14985), for a construction permit for a new standard broadcast station to operate on 1280 kilocycles with a power of one kilowatt, daytime only, at Staunton, Virginia. The Staunton proposal is not being included in the hearing ordered below, but will be considered by the Commission in the light of the determination with respect to the Epperson applications presently under consideration.

6. In considering the Epperson applications and § 3.35 of the Commission's rules, it appears appropriate to consider the size, extent and location of the areas served and to be served; the extent of the overlap involved (if any); the number of persons residing within the overlap area; the classes of stations involved; the extent of other competitive service to the areas in question; the extent to which the stations will rely on the same revenue and program sources; the nature of the programming that the stations will present with particular reference to the needs of the communities they are designed to serve; the advertising practices of the stations; the source of program material and talent for each station; the relationship of the various members of the Epperson family with respect to their broadcast and other business interests; and such other factors as will tend to demonstrate that the overlap and/or concentration of control involved will or will not be in contravention of § 3.35 of the Commission's rules.

*The two 1410 kc applications.* 7. Apart from multiple ownership problems involving Stuart W. Epperson, the following matters must be considered in connection with issues involving the two 1410 kc applications:

(A) The two proposed operations, approximately 35 miles apart, would involve mutually destructive interference.

(B) John Laurino, individual applicant in BP-13752, is also owner of a 50 percent interest in Station WDYL, Ashland, Virginia, 27 miles from the site of his subject proposal for Chester, Virginia. Substantial overlap of primary service contours would occur between the subject proposal and WDYL and, for this reason, a substantial question exists as to whether a grant of the subject proposal would result in contravention of § 3.35(a) of the Commission's rules. Consideration of the factors noted in paragraph 6, supra, will be equally appropriate in determining whether the Laurino proposal would be in contravention of § 3.35(a).

*The ten 1500 kc-1540 kc applications.* 8. Apart from multiple ownership problems involving Stuart W. Epperson and Harry A. Epperson, Jr., the following matters must be considered in connection with issues involving the ten 1500 kc-1540 kc applications:

(A) The applications involve varying degrees of interlinking interference, of sufficient extent to require consolidated consideration.

(B) The proposed operation of Francis M. Fitzgerald would involve slight mutual interference with the proposed operation of WIDU Broadcasting, Inc., File No. BP-14348. However, the interference involved will render neither application in violation of any Commission rule and therefore, the WIDU application will not be consolidated herein. Any grant of the subject Fitzgerald application will be conditioned upon acceptance of interference caused by the WIDU proposal.

(C) Similarly, the subject application of Risdien Allen Lyon would involve slight mutual interference, with the application of Tri-County Broadcasting Company, Inc., BP-14789, to increase the power of Station WIFM, Elkin, North Carolina. For identical reasons to those set forth in the preceding paragraph, the WIFM application will not be consolidated herein and any grant of the Lyon application will be appropriately conditioned.

(D) It cannot be determined, on the basis of information submitted, that the following applicants are financially qualified to construct and operate their subject proposals:

(1) *Harry A. Epperson, Jr. (BP-14203).* Funds of approximately \$24,677 are needed to cover the down payment on the equipment, building, miscellaneous expenses and three months working capital. However, Mr. Epperson's balance sheet shows cash of only \$19,000 less current liabilities of approximately \$2000 and the current amount payable on equipment, total of which is \$4173. Mr. Epperson, Jr. also has an application, BP-14985, on file for a new station at Staunton, Virginia, which is estimated to require \$21,003.

(2) *Boyce J. Hanna (BP-14237).* Funds of approximately \$20,203 are required to cover the down payment on equipment, building, miscellaneous expense and three months working capital. However, Mr. Hanna's balance sheet shows liquid assets including only cash of \$750 and Insurance and Savings of \$2875, a total of \$3625. Current accounts payable are shown as \$3105 and additional liabilities, not segregated to show amounts payable within one year, include a bank note of \$2100 and a Deed of Trust of \$5534.

(3) *Lee-Blake Broadcasting Company (BP-14242).* The applicant is a partnership composed of three persons: J. H. Lee (49 percent), John Blake (49 percent), and James W. Harman, Jr., (2 percent). Funds of approximately \$22,910 are needed to cover the estimated cost of the station plus three months working capital, and each partner has agreed to contribute partnership capital in his proportionate share. Accordingly,

partner Lee needs \$11,225. However, Lee's balance sheet shows cash of only \$2000 less his bank note for \$1027. Blake has agreed to loan Lee funds, if necessary, but, since the maximum loan proposed is only \$6000, Lee appears to lack adequate funds to meet his commitment.

(4) *Risden Allen Lyon (BP-14661)*. Mr. Lyon appears to rely solely upon a bank loan commitment of \$30,000 to meet the proposed costs of construction and initial operation of his proposed facility, amounting to \$28,583. However, the bank loan commitment submitted fails to show the terms of repayment or security, if any, as required by Section III, Paragraph 4(h) of the application form, and is signed only by the Cashier of the bank proposing to furnish funds.

(5) *Stuart W. Epperson (BP-14909)*. Funds of approximately \$16,612 are needed to cover the down payment on equipment, miscellaneous expenses and three months working capital. In addition, plans are to lease land and buildings, but no information concerning costs in this connection has been furnished. Applicant's balance sheet as of April 30, 1961, fails to show any cash or liquid assets available. As noted, Stuart W. Epperson has a second application pending for Wakefield, Virginia, BP-13754, which has been consolidated in this proceeding. The Wakefield proposal is to be financed by manufacturer's deferred credit and a \$10,000 bank loan secured by a note signed by Harry A. Epperson, Sr. Stuart W. Epperson appears to be financially qualified to construct and operate the Wakefield proposal.

(E) In addition to § 3.35 questions with regard to the Epperson applications, the following applications in the 1500-1540 kc group involve substantial multiple ownership questions. (Consideration of the factors noted in paragraph 6, supra, will be equally appropriate in each case below).

(1) *Boyce J. Hanna*, individual applicant in BP-14237, for East Gastonia, North Carolina, owns a two-thirds interest in Station WADA, Shelby, North Carolina, approximately 25 miles away. Substantial overlap of primary service contours would occur, to the extent that the major portion of the WADA normally protected service contour would lie within the normally protected service contour of the proposed East Gastonia operation. A substantial question obtains as to whether a grant of the subject proposal would result in contravention of § 3.35(a) of the Commission's rules.

(2) *Wilkes Broadcasting Company*, applicant for a new station at Mocksville, North Carolina, BP-14288, is also licensee of WKBC, North Wilkesboro, North Carolina and WATA, Boone, North Carolina, approximately 35 and 65 miles, respectively, from the site of the Mocksville proposal. Additionally, Robert B. Brown, vice-president of Wilkes Broadcasting Company and son of Doris B. Brown, president and 50 percent stockholder of Wilkes Broadcasting Company, is permittee of a new station at Taylorsville, North Carolina, said permit having been granted October 31,

1961. Taylorsville is approximately 35 miles from the site of the subject application. In view of the substantial overlap of primary service contours which would exist between Station WKBC and the subject proposal, and in view of the relatively high concentration of co-owned stations which would occur within a limited area of North Carolina, a substantial question obtains as to whether a grant of the subject Mocksville proposal would result in contravention of § 3.35 (a) or (b) of the Commission's rules.

(3) *James P. Poston*, applicant for a new standard broadcast station at Kernersville, North Carolina, BP-14918, is also president and 25 percent stockholder in the corporate licensee of Station WNOH, Raleigh, North Carolina, and general manager for the Inter-City Advertising Company of Charlotte, N.C., Inc., licensee of Station WAYS of Charlotte, North Carolina, of which the vice-president, secretary and one-third stockholder is Harold H. Thoms. Harold H. Thoms, Meredith S. Thoms, his wife, and Matilann S. Thoms Gennett, his daughter, are the stockholders in the corporate licensee of standard broadcast station WCOG, Greensboro, North Carolina, which is approximately 13 miles from Kernersville. Mr. Poston's application also indicates that he is vice-president of Thoms Radio & TV Enterprises, a sales agency. However, Mr. Poston's application does not disclose the principal place of business of Thoms Radio & TV Enterprises, the names of other persons with whom Mr. Poston is associated in said company, or whether Harold H. Thoms has any connection with Thoms Radio & TV Enterprises. Therefore, a determination must be made concerning the persons with whom Mr. Poston is associated in Thoms Radio & TV Enterprises, the nature of Mr. Poston's business relations with Harold H. Thoms and, in the light of these determinations, whether a grant of Mr. Poston's application would be consistent with the provisions of § 3.35 of the Commission's rules and its policies promulgated thereunder.

(F) *John Blake* holds a 49 percent partnership interest in Lee-Blake Broadcasting Company, applicant in BP-14242, for Spartanburg, South Carolina. Since 1948 Mr. Blake has acquired, and sold, controlling interests in six standard broadcast stations in Texas, Missouri and New Mexico, these stations having been held by Mr. Blake for periods of one to four years prior to sale. In view of these facts, a substantial question obtains as to whether Mr. Blake's past conduct as a licensee has been consistent with the Commission's policy against "trafficking" in broadcast licenses and construction permits.

(G) *Boyce J. Hanna*, individual applicant in BP-14237, for East Gastonia, North Carolina, has indicated that his proposed program week will include 0.86 percent Educational programs, 0.36 percent Discussion, and no Talk programs. Mr. Hanna proposes to broadcast 1200 commercial spot announcements and 600 noncommercial spot announcements

each 70 hour broadcast week, an average of approximately 17 commercial spot announcements or 26 total spot announcements per hour. Mr. Hanna states that commercial announcements will not exceed 90 seconds in length and will be "limited" to a maximum of 24 within a 60 minute period. In view of the program proposals noted, it cannot be determined without further evidentiary proceedings that the applicant has taken sufficient steps to ascertain community programming needs and has planned adequately to meet these needs.

(H) All other issues with regard to 1,500-1,540 kc group are self-explanatory.

9. In view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine whether a grant of any one or more of the four subject applications filed by members of the Epperson family would be in contravention of § 3.35(b) of the Commission's rules.

(2) To determine whether a grant of either or both of the two subject applications filed by Stuart W. Epperson would be in contravention of § 3.35(a) of the Commission's rules.

(3) To determine the areas and populations which would receive primary service from each of the subject applications for new stations, and the availability of other primary service to such areas and populations.

(4) To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of Station WYCL and the availability of other primary service to such areas and populations.

(5) To determine the nature and extent of the interference, if any, that each of the instant proposals would cause to and receive from each other and the interference that each of the instant proposals would receive from all other existing standard broadcast stations, the areas and populations affected thereby, and the availability of other primary service to the areas and populations affected by interference from any of the instant proposals.

(6) To determine whether the proposed operation of Boyce J. Hanna would result in radiation toward the 0.1 mv/m contour of Station WLAC, Nashville, Tennessee, which would be excessive, during critical hours, pursuant to § 3.187 of the Commission's rules.

(7) To determine whether the interference received by each instant proposal from any of the other proposals herein and any existing stations would affect more than ten percent of the population within its normally protected

primary service area in contravention of § 3.28(d) (3) of the Commission rules and, if so, whether circumstances exist which would warrant a waiver of said section.

(8) To determine whether a grant of the instant proposals of Boyce J. Hanna or of John Laurino would be in contravention of § 3.35(a) of the Commission's rules.

(9) To determine whether a grant of the instant proposal of Wilkes Broadcasting Company would be in contravention of § 3.35 (a) or (b) of the Commission's rules.

(10) To determine whether a grant of the application of James P. Poston would be consistent with the provisions of § 3.35 of the Commission's rules and its policies promulgated thereunder, particularly with respect to its policy of requiring open, arms-length competition among broadcast stations in the same broadcast services serving substantially the same area.

(11) To determine whether the following subject applicants are financially qualified to construct and operate their proposed stations:

- (a) Harry A. Epperson, Jr. (BP-14203).
- (b) Stuart W. Epperson (BP-14909 only).
- (c) Boyce J. Hanna (BP-14237).
- (d) Lee-Blake Broadcasting Company (BP-14242).
- (e) Ridsen Allen Lyon (BP-14661).

(12) To determine the efforts made by Boyce J. Hanna to ascertain the programming needs and interests of the area he proposes to serve and the manner in which the applicant proposes to meet such needs and interests.

(13) To determine whether the past broadcast activities of John Blake indicate a pattern of "trafficking" in broadcast licenses and construction permits and, if so, to determine whether Lee-Blake Broadcasting Company possesses the necessary qualifications to become a Commission licensee.

(14) To determine whether overlap of the 2 and 25 mv/m contours would occur between the instant proposals of Harry A. Epperson, Jr., BP-14203, and Ridsen Allen Lyon, BP-14661, in contravention of § 3.37 of the Commission rules, and, if so, whether circumstances exist which would warrant a waiver of said Section.

(15) To determine, in the event it is concluded that East Gastonia, North Carolina is a separate community from Gastonia, North Carolina for the purposes of section 307(b) of the Communications Act of 1934, as amended, the type and character of the programming service now available to East Gastonia from licensed standard broadcast stations in Gastonia, and whether the programming needs of East Gastonia are met by such programming.

(16) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals seeking operation on 1410 kc would better provide a fair, efficient and equitable distribution of radio service.

(17) To determine, in the light of section 307(b) of the Communications Act

of 1934, as amended, which of the instant proposals seeking operation on 1500 kc, 1510 kc, 1520 kc, and 1540 kc would best provide a fair, efficient and equitable distribution of radio service.

(18) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if any, of the instant applications should be granted.

*It is further ordered*, That WLAC, Inc., licensee of Station WLAC, Nashville, Tennessee, is made a party to the proceeding.

*It is further ordered*, That any grant of the subject application of Francis M. Fitzgerald will be conditioned upon the permittee's acceptance of any interference received as a result of a subsequent grant of the application (BP-14348) of WIDU Broadcasting Company.

*It is further ordered*, That any grant of the subject application of Ridsen Allen Lyon will be conditioned upon the permittee's acceptance of any interference received as a result of a subsequent grant of the application (BP-14789) of Tri-County Broadcasting Company, Inc.

*It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

*It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, (either individually or, if feasible, jointly) and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules. Such notice shall be given within the time and in the manner prescribed in the rule, except that the provisions of § 1.362(e) shall apply only to the extent that each applicant must publish:

(1) The name of the applicant publishing notice and the fact that the applicant has been designated for consolidated hearing with other applicants.

(2) The call letters, if any, of the publishing applicant and the frequency on which the station is operating or proposes to operate.

(3) The time and place of the hearing.

(4) All issues in this order specifically applicable to the publishing applicant, provided that all applicants herein designated for hearing shall publish Issues 5, 7, and 18.

*It is further ordered*, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals

set forth in the application will be effectuated.

Adopted: November 15, 1961.

Released: November 21, 1961.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 61-11198; Filed, Nov. 24, 1961;  
8:53 a.m.]

[Docket Nos. 14394, 14395; FCC 61-1367]

## FLOWER CITY TELEVISION CORP. AND GENESSEE VALLEY TELEVISION CO., INC.

### Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Flower City Television Corporation, Rochester, New York, Docket No. 14394, File No. BPCT-2929; Genessee Valley Television Co., Inc., Rochester, New York, Docket No. 14395, File No. BPCT-2944; for construction permits for new television broadcast stations.

At a session of the Federal Communications Commission, held at its offices in Washington, D.C., on the 15th day of November 1961;

The Commission having under consideration the above-captioned applications each requesting a construction permit for a new television broadcast station to operate on Channel 13, assigned to Rochester, New York; and

It appearing, that the above-captioned applications are mutually exclusive in that operation by both of the applicants, as proposed, would result in mutually destructive interference and that, therefore, a hearing is necessary in order to determine on a comparative basis, which of the above-captioned applications would best serve the public interest, convenience and necessity; and

It further appearing, that there are also pending applications by Rochester Area Educational Television Association, Inc. (BPCT-2943), Star Television, Inc. (BPCT-2948), Community Broadcasting, Inc. (BPCT-2953), Citizen's Television Corp. (BPCT-2967), Federal Broadcasting System, Inc. (BPCT-2966), Heritage Radio and Television Broadcasting Co. (BPCT-2961), Ivy Broadcasting Company, Inc. (BPCT), Main Broadcast Co. (BPCT-2964), and Rochester Broadcasting Corporation (BPCT-2972), which also request construction permits for new television broadcast stations to operate on Channel 13 in Rochester, New York; that these applications are mutually exclusive with the above-captioned applications; that inasmuch as these applications, or major amendments thereto, have not been on file for thirty days since public notice of acceptance for filing, the applications will not be designated for hearing at this time but will be consolidated after such time as the thirty day period will have run; and that all other applications which were filed before 5:00 p.m., November 14, 1961 and

are entitled to comparative consideration with the above-captioned applications, will also be consolidated in the instant hearing in a subsequent order; and

It further appearing, that the above-captioned applications propose antenna locations in the vicinity of the antennas of standard broadcast stations WBBF, WVET, WHEC and WSAY; that the installation and operation of the television antennas as proposed are possible and feasible without adversely affecting the ability of stations WBBF, WVET, WHEC, and WSAY to operate in accordance with the terms of their licenses, but that appropriate proof thereof should be submitted after installation of either of the proposed antennas; and that a grant, if made, of either of the above-captioned applications should be subject to a condition in this respect as follows:

The construction authorized herein is subject to the condition that the ability of standard broadcast stations WBBF, WVET, WHEC and WSAY to operate in accordance with the terms of their licenses shall not be adversely affected thereby, particularly with respect to their radiation patterns, and that at least five field intensity measurements on each radial established during the last proof of performance for each of these standard broadcast stations shall be submitted with the television application for license to prove that such patterns have not been materially affected.

It further appearing, that upon due consideration of the above-captioned applications, the Commission finds that Flower City Television Corporation is legally, financially, technically and otherwise qualified to construct, own and operate the proposed television broadcast station and that Genesee Valley Television Co., Inc., is legally, financially, technically and otherwise qualified to construct, own and operate the proposed television broadcast station.

It is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine on a comparative basis which of the operations proposed in the above-captioned applications would best serve the public interest, convenience and necessity in light of the significant differences between the applicants as to:

(a) The background and experience of each bearing on its ability to own and operate the proposed television broadcast station.

(b) The proposals of each with respect to the management and operation of the proposed television station.

(c) The programming service proposed in each of the above-captioned applications.

3. To determine in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

It is further ordered, That the issues in the above-entitled proceeding may be

enlarged by the Examiner on his own motion or on petition properly filed by a party to the proceeding and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicants will give reasonable assurance that the proposals set forth in the applications will be effectuated.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the provisions of section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.632(b) of the Commission's rules with respect to the notice of hearing shall be suspended until such time as the Commission issues a subsequent order consolidating all parties and specifying all other issues.

Released: November 21, 1961.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 61-11199; Filed, Nov. 24, 1961;  
8:53 a.m.]

## FEDERAL POWER COMMISSION

[Docket No. CP61-234 etc.]

### MONTANA-DAKOTA UTILITIES CO. ET AL.

#### Notice of Postponement of Hearing

NOVEMBER 17, 1961.

Montana-Dakota Utilities Co., Docket Nos. CP61-234, CP61-297; Amerada Petroleum Corporation, Docket No. CI61-1133; Signal Oil and Gas Co., Docket No. CI61-1271; Lyda Hunt-Herbert Trusts, et al., Docket No. CI61-1621; The TXL Oil Corporation, Docket No. CI61-1687; Continental Oil Co., Operator, et al., Docket No. G-14440.

Upon consideration of the motion filed November 13, 1961 by Amerada Petroleum Corporation and telegraphic requests of other parties for postponement of time to present evidence in the above-designated matters and answer of Staff Counsel to said motion;

Notice is hereby given that the hearing scheduled to commence on November 27, 1961 is hereby postponed to December 12, 1961, at 10:00 a.m., in a hearing room of the Federal Power Commission, 441 G Street N.W., Washington, D.C.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 61-11165; Filed, Nov. 24, 1961;  
8:46 a.m.]

[Docket No. RI60-43]

### S. T. CONSTANTINE, ET AL.<sup>1</sup>

#### Order Providing for Hearing on and Suspension of Proposed Change in Rate and Allowing Rate Change To Become Effective Subject to Refund

NOVEMBER 17, 1961.

On October 20, 1961, S. T. Constantine (Operator), et al., tendered for filing Supplement No. 2 (consisting of three ratification agreements dated July 6, 1960 of three nonoperators under his contract dated February 4, 1959, as amended) to his FPC Gas Rate Schedule No. 1. The rate schedule is involved in a suspension proceeding in Docket No. RI60-43, and is a result of a renegotiated increase with El Paso Natural Gas Company, in return for elimination of a favored-nation clause. Constantine requests that the three ratifications be accepted for filing in such a manner that the three non-operators may be entitled to the renegotiated increase, subject to refund, as of July 6, 1960.

Constantine proposes a change in the presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission, so as to increase the presently effective rate of 9.5¢ per Mcf to 14.69578¢ per Mcf for natural gas produced in the Noelke Field, Crockett County, Texas, R.R. District No. 7-c, and sold to El Paso Natural Gas Company.

The increased rate and charge so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed change and that the above-designated rate supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed change and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(B) Pending hearing and decision thereon, the above-designated supplement is hereby suspended for one day from November 20, 1961, the date of expiration of statutory notice and the use thereof deferred until November 21, 1961, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act: *Provided, however*, That Supplement No. 2 to Constantine's FPC Gas Rate Schedule No. 1 shall become effective subject to

<sup>1</sup> Address is: 229 Central Building, Midland, Tex.

refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Constantine shall execute and file under the above-designated docket number with the Secretary of the Commission an agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder, accompanied by a certificate showing service of copies thereof upon the purchaser under the rate schedule involved. Unless Constantine is advised to the contrary within 15 days after the filing of such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before January 2, 1962.

By the Commission.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 61-11166; Filed, Nov. 24, 1961;  
8:46 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3842]

### BLACK BEAR INDUSTRIES, INC.

#### Order Summarily Suspending Trading

NOVEMBER 17, 1961.

The common stock, par value 15 cents a share, of Black Bear Industries, Inc. (formerly Black Bear Consolidated Mining Co.) being listed and registered on the San Francisco Mining Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the San Francisco Mining Exchange be

summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, November 20, 1961, to November 29, 1961, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 61-11167; Filed, Nov. 24, 1961;  
8:47 a.m.]

[File No. 812-1435]

### NORSE-AM. FINANCIAL CORP.

#### Filing of Application for Exemption Order

NOVEMBER 17, 1961.

Notice is hereby given that Norse-Am. Financial Corporation ("Applicant"), Hicksville, New York, a corporation organized under the laws of New York, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") for an order of the Commission exempting it from all the provisions of the Act.

The application makes the following representations:

Applicant, a wholly owned subsidiary of Bergens Privatbank ("Bank"), a Norwegian banking corporation, was organized on August 4, 1961. Applicant states that all its voting securities will continue to be owned by the Bank and that it has not made and has no intention of making any public offering of its securities in the United States.

In the course of its banking business the Bank has arranged to borrow, through Applicant, from a life insurance company in the United States ("Insurance Company") the sum of \$1,500,000 to be re-loaned to one of the Bank's customers, a Norwegian municipality. The arrangement with the Insurance Company is that the borrower be a domestic corporation.

The transaction will be effected by causing Applicant to issue and deliver to the Insurance Company its notes, guaranteed by the Bank, in the aggregate principal amount of \$1,500,000 maturing serially at terms of from six to ten years. The proceeds of the sale of such notes, less a discount for expenses, will be loaned by the Bank to said Norwegian municipality. The obligations of said municipality evidencing such loans will contain terms corresponding to those in Applicant's notes in respect of interest, maturity and prepayment. The obligations issued by the municipality will be pledged by Applicant to the Insurance Company as security for the notes sold to it by Applicant, together with additional collateral having a market value equal to 25 percent of the face amount of the loan. This collateral will either be transferred by the Bank to Applicant in exchange for stock or notes of Applicant or purchased by Applicant with funds supplied by the Bank. If any of this additional collateral is withdrawn as the amount of the loan is reduced, Applicant plans to use it as collateral for further similar financing or sell it and repay the Bank out of the proceeds. Applicant rep-

resents that its sole purpose in acquiring said additional collateral is to provide the additional margin of security called for under the loan agreement and not for the purpose of realizing any profit by trading in such securities or from the receipt of income thereon.

Applicant intends to engage in similar long term debt financing to an aggregate of \$10,000,000, which is less than 6 percent of the Bank's total present volume of loans and discounts. Any such additional financing will be obtained only from the same Insurance Company, other insurance companies or from banks, pension funds and similar institutional lenders. Applicant represents that the pattern of the financing will be similar since Applicant will borrow from the institutional lender; the Bank will, if required, guarantee each loan; the net proceeds of each loan will be used to purchase from the Bank debt securities of a customer of the Bank; the Norwegian recipients of the funds borrowed will be municipalities, instrumentalities thereof, or business corporations considered by the Bank to be prime credit risks; and the securities of the recipient will be pledged to secure Applicant's notes.

Applicant, relying on the above representations, states that it will be merely a debt-financing entity for the Bank in obtaining long-term loans for the Bank's customers in Norway from institutional investors in the United States.

Applicant also points out that there is no significant United States investor interest in Applicant or the Bank; and that no public distribution in the United States of any securities issued by Applicant or the Bank has been made or is intended.

The Bank operates in Norway, where it carries on a general commercial banking business, including the making of loans and receipt of deposits. Its total assets as of July 31, 1961 included loans and discounts of approximately \$168,000,000. Its outstanding share capital is in excess of \$5,000,000.

As of December 31, 1960 the Bank had approximately 6,000 shareholders of record. As of September 8, 1961 there were forty-five shareholders of record whose addresses, whether temporary or permanent, were in the United States, whose holdings represent 0.41 percent of the Bank's total shares outstanding. Norwegian law requires that at least ninety percent of the shares of the Bank be owned by resident citizens of Norway. Further, no shares of the Bank may be transferred without the consent of the board of directors of the Bank.

Applicant has submitted the following as appropriate conditions to any order of exemption: (1) that Applicant give prior notification to the Commission of the issuance by it of any securities (other than short term paper) to any person other than the Bank, and of any proposed transfer by the Bank of its shares in Applicant; (2) that Applicant, within ninety days of the close of each fiscal year, file with the Commission a copy of its balance sheet and income statement for such fiscal year; (3) that Applicant, within ninety days of the close of the Bank's fiscal year, file with the Commission a copy of the Bank's annual re-

port to its stockholders, and a statement so far as is known to it or the Bank, of the number of shareholders of record with addresses in the United States and the aggregate number of shares owned by such persons; and (4) that Applicant give prior notification to the Commission of any proposed public distribution in the United States by the Bank of any security of which the Bank is the issuer.

Generally speaking, section 6(c) of the Act provides that the Commission by order upon application may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 4, 1961 at 5:30 p.m., e.s.t., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 61-11168; Filed, Nov. 24, 1961;  
8:47 a.m.]

## DEPARTMENT OF COMMERCE

### Bureau of the Census

#### DISTRIBUTORS STOCKS OF CANNED FOOD

#### Notice of Consideration for Surveys

Notice is hereby given that the Bureau of the Census is planning to conduct its usual annual survey of inventories covering 29 canned and bottled products, including vegetables, fruits, juices, and fish as of December 31, 1961, under the provisions of the Act of Congress approved August 31, 1954, 13 U.S.C. 181, 224, and 225. This survey, together with the previous surveys, provides the only continuing source of information on stocks of the specified canned foods held by wholesalers and in warehouses of retail multi-unit organizations.

On the basis of information received by the Bureau of the Census, these data will have significant application to the

needs of the public, industry and the distributive trades, and governmental agencies and are not publicly available from nongovernmental or other governmental sources.

Such survey, if conducted, shall begin not earlier than 30 days after publication of this notice in the FEDERAL REGISTER.

Reports will not be required from all firms but will be limited to a scientifically selected sample of wholesalers and retail multi-unit organizations handling canned foods, in order to provide year-end inventories of the specified canned food items with measurable reliability. These stocks will be measured in terms of actual cases with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger."

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington 25, D.C.

Any suggestions or recommendations concerning the subject matter of this proposed survey should be submitted in writing to the Director of the Census within 30 days after the date of this publication and will receive consideration.

RICHARD M. SCAMMON,  
Director,  
Bureau of the Census.

[F.R. Doc. 61-11189; Filed, Nov. 24, 1961;  
8:51 a.m.]

#### Office of Export Control

[File 23-474]

#### S. R. TIPPETT & CO., LTD.

#### Order Denying Export Privileges for An Indefinite Period

The Investigation Staff of the Bureau of International Programs, United States Department of Commerce, is conducting an investigation into the facts surrounding the exportation from the United States of substantial quantities of U.S. origin automotive parts and equipment, the persons who participated therein, the ultimate receiver thereof, and their ultimate destination. It has applied for an order denying to the respondent, S. R. Tippet & Co. Ltd., London, England, all export privileges for an indefinite period because of its failure and refusal to respond to written interrogatories duly served on it. The application was made pursuant to § 382.15 of the Export Regulations (Title 15, Chapter III, Subchapter B, CFR) and, in accordance with the practice thereunder, was referred to the Compliance Commissioner of the Bureau of International Programs who, after considering evidence in support thereof, has recommended that it be granted.

On August 8, 1961, by Department Order, No. 173, of the Department of Commerce, 26 F.R. 7980, the Office of Export Supply of the Bureau of Foreign Commerce became the Office of Export Control of the Bureau of International Programs, the undersigned Director of which now has and exercises the authority and powers formerly held by the Director of the Office of Export Supply, Bureau of Foreign Commerce.

Now, on receipt of the Compliance Commissioner's recommendation, after reviewing and considering the evidence submitted in support of the application, from which evidence it appears (1) that an investigation is being conducted as noted above and that it is impracticable to issue a subpoena to the respondent, and (2) that relevant and material interrogatories were duly served on the respondent to which it has failed, omitted, and refused to respond without reasonable cause and without adequate explanation and, having concluded further (a) that this order is reasonable and necessary to protect the public interest and to achieve effective enforcement of the Export Control Act of 1949, as amended, and (b) that it is advisable that persons in the United States and in other parts of the world be informed by publication of this order of the provisions hereafter set forth so that the respondent may be prevented from receiving commodities exported from the United States so long as it is effective: *It is hereby ordered:*

I. All outstanding validated export licenses in which the respondent, S. R. Tippet & Co., Ltd., appears or participates as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of International Programs for cancellation.

II. The respondent, its representatives, agents, and employees, are hereby denied all privileges of participating directly or indirectly in any manner, form, or capacity in any past, present, or future exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing, participation in an exportation shall include and prohibit said respondent's and such other persons' participation (a) as party or as representative of a party to any validated export license application; (b) in the obtaining or using of any validated or general export license or other export control document; (c) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities in whole or in part exported from the United States; and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States.

III. This order shall remain in effect until the respondent satisfactorily answers, or furnishes written information or documents in response to the interrogatories heretofore served on it or gives adequate reason for its failure or refusal to respond, except insofar as it may be amended or modified hereafter in accordance with the Export Regulations.

IV. Without prior disclosure of the facts to and specific authorization from the Bureau of International Programs, no person, firm, corporation, or other business organization, within the United States or elsewhere (whether or not engaged in trade relating to exports from the United States), shall directly or indirectly in any manner, form, or capacity (a) apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control

document relating to any exportation of commodities from the United States, or (b) order, receive, buy, sell, deliver, use, dispose of, finance, transport, forward, or otherwise service or participate in an exportation from the United States, or in a re-exportation of any commodity exported from the United States, on behalf of or in any association with the respondent or any person acting on his behalf; nor shall any person do any of the foregoing acts with respect to any exportation as to which the respondent may have any interest or obtain any benefit of any kind or nature, direct or indirect.

V. In accordance with the provisions of § 382.11(c) of the Export Regulations, the respondent may move, at any time prior to the cancellation or termination hereof, to vacate or modify this indefinite denial order by filing an appropriate application therefor, supported by evidence, with the Compliance Commissioner, and it may request oral hearing thereon, which, if requested, will be held before the Compliance Commissioner at Washington, D.C., at the earliest convenient date.

Dated: October 21, 1961.

Effective date: November 21, 1961.

JOHN C. BORTON,  
Director,  
Office of Export Control.

[F.R. Doc. 61-11185; Filed, Nov. 24, 1961;  
8:50 a.m.]

#### Office of the Secretary

JULIEN R. STEELMAN

#### Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the past six months.

- A. Deletions: None.
- B. Additions: None.

This statement is made as of November 14, 1961.

JULIEN R. STEELMAN.

NOVEMBER 14, 1961.

[F.R. Doc. 61-11184; Filed, Nov. 24, 1961;  
8:50 a.m.]

## INTERSTATE COMMERCE COMMISSION

### FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 21, 1961.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

#### LONG-AND-SHORT HAUL

FSA No. 37451: *Class rates—Seatrain Lines, Inc.* Filed by Seatrain Lines, Inc., (No. 17), for interested carriers. Rates on various commodities moving on class rates, loaded in containers, and transported over joint water-rail, motor-water-rail, rail-water and rail-water-motor routes of the applicant rail and motor carriers and Seatrain Lines, Inc., between specified points in New Jersey, New York, and Pennsylvania, one the one hand, and points in Louisiana and Texas, on the other.

Grounds for relief: Motor-water and water-rail competition.

Tariff: Seatrain Lines, Inc., tariff I.C.C. 189.

FSA No. 37452: *Joint motor-rail rates—M-K-T and Chicago Express Incorporated.* Filed by Middlewest Motor Freight Bureau, Agent, (No. 323), for interested carriers. Rates on commodities, moving on class and commodity rates, loaded in highway trailers of the motor carrier over the highways, thence transported on railroad flat cars of the railroad, between points in Kansas, Missouri, Oklahoma, and Texas, on the one hand, and points in Indiana, Kentucky, Michigan, New York and Ohio, on the other.

Grounds for relief: Motor-truck competition.

FSA No. 37453: *Canned goods from and to western trunk line territory.* Filed by Western Trunk Line Committee, Agent, (No. A-2213), for interested rail carriers. Rates on canned goods and related articles, in carloads, between specified points in Colorado and Wyoming, on the one hand, and points in western trunk-line territory, on the other.

Grounds for relief: Market competition, short-line distance formula and grouping.

Tariff: Supplement 5 to Western Trunk Line Committee tariff I.C.C. A-4390.

By the Commission.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 61-11176; Filed, Nov. 24, 1961;  
8:48 a.m.]

[Notice 570]

### MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 21, 1961.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by

petitioners must be specified in their petitions with particularity.

No. MC-FC 64207. By order of November 16, 1961, the Transfer Board approved the transfer to Raymond L. Poole, doing business as Poole Truck Line, Mound City, Kans., of the operating rights in Certificate No. MC 30078, issued April 9, 1958, to Kenneth R. Simpson, doing business as Simpson Truck Line, Mound City, Kans., authorizing the transportation of livestock, seed, and hay, over regular routes, from Mound City, Kans., to Kansas City, Mo., general commodities, excluding household goods, commodities in bulk, and other specified commodities, from Kansas City, Mo., to Mound City, Kans., between Mound City, Kans., and Kansas City, Mo., and over irregular routes, of livestock, agricultural commodities, empty petroleum products containers, and empty compressed gas cylinders, from Mound City, Kans., and points within 10 miles thereof, to Kansas City, Kans., and Kansas City, Mo., and livestock, feed, agricultural implements, agricultural implement parts, petroleum products, in containers, compressed gas in cylinders, plumbing fixtures, and supplies, electrical fixtures, and equipment, and such merchandise as is dealt in by hardware stores, from Kansas City, Mo., and Kansas City, Kans., to Mound City, Kans. Charles L. Davis, Jr., 506 National Reserve Building, Topeka, Kans., Attorney for applicants.

No. MC-FC 64246. By order of November 16, 1961, the Transfer Board approved the transfer to Nutmeg Transport, Inc., Vernon, Conn., of the operating rights remaining in Certificate No. MC 83726 Sub 1, after transfer of a portion approved in No. MC-FC 64058, and the entire operating rights in Certificate No. MC 83726 Sub 2, issued June 22, 1955, and June 21, 1957, respectively, to Cummings, Incorporated, Vernon, Conn., authorizing the transportation of brick, from Berlin, Windsor Locks, Hartford, and East Windsor Hill, Conn., to Pawtucket, R.I., points in a described portion of New York, in Providence, Kent, and Washington Counties, R.I., Taunton, Milford, and New Bedford, Mass., and a described portion of Massachusetts, and from East Windsor Hill, Conn., to points in Maine, New Hampshire, and Vermont, points in Massachusetts east of Massachusetts Highway 12 (except Taunton, Milford, and New Bedford), points in New York within 25 miles of Albany, and points in Rhode Island (except Pawtucket and points in Providence, Kent, and Washington Counties. Reubin Kaminsky, 410 Asylum Street, Hartford, Conn., Applicant's attorney.

No. MC-FC 64343. By order of November 17, 1961, the Transfer Board approved the transfer to Theodore Schultz, doing business as Schultz Trucking Service, 508 South Adams Street, St. Francis, Kans., of the operating rights in Certificate No. MC 105715, issued February 3, 1954, to Leonard Moore, St. Francis, Kans., authorizing the transportation, over irregular routes, of livestock, grain, livestock feed, seeds, salt, building materials, contractor's tools and equipment,

agricultural machinery and tools, coal, wood, fencing materials and posts, scrap metals and junk, between points in Cheyenne, Rawlins, and Sherman Counties, Kans., Yuma County, Colo., and Dundy County, Nebr., on the one hand, and, on the other, Denver, Colo., between points in Cheyenne, Rawlins, and Sherman Counties, Kans., and Yuma County, Colo., on the one hand, and, on the other, points in Dundy County, Nebr., and between points in Cheyenne, Rawlins, and Sherman Counties, Kans., on the one hand, and, on the other, points in Yuma County, Colo.

No. MC-FC 64505. By order of November 16, 1961, the Transfer Board approved the transfer to Parvin's Transfer, Inc., Penns Grove, N.J., of Certificates Nos. MC 59314 and MC 59314 Sub 3, issued July 28, 1954 and January 28, 1959, respectively, to Arthur Parvin, doing business as Arthur Parvin's Transfer, Penns Grove, N.J., authorizing the transportation of: General commodities, with, and without exceptions, between certain points in New Jersey, in auxiliary or supplemental rail service, as specified; household goods, between Penns Grove and Pedricktown, N.J., on the one hand, and, on the other, points in Maryland, Massachusetts, Pennsylvania, and the District of Columbia; agricultural com-

modities, from points in New Jersey, as specified, to Boston, Mass., Providence, R.I., Baltimore, Md., District of Columbia, Altoona, Huntingdon, Philadelphia, Pittsburgh, Scranton, Uniontown, and Wilkes-Barre, Pa., Albany, Buffalo, Rochester, and Syracuse, N.Y., and Points in the New York, N.Y. Commercial Zone; fertilizer, insecticides, seed, and feed from Baltimore, Md., and Philadelphia, Pa., to Pedricktown, N.J., and points in New Jersey within 15 miles thereof; lime, from Plymouth Meeting and Chester Valley, Pa., to Pedricktown, N.J., and points in New Jersey within 15 miles thereof; empty fruit and vegetable containers, from Baltimore, Md., New York, N.Y., and Philadelphia, Pa., to Pedricktown and points in New Jersey within 15 miles thereof; coal, from St. Clair, Pa., to Penns Grove, N.J.; lumber, from Wilmington, Del., and Philadelphia, Pa., to Penns Grove, N.J., hardware, and building materials, from Philadelphia, Pa., to Penns Grove, N.J.; hardware, from Muncy, Pa., to Penns Grove, N.J.; and small arms ammunition, from New Haven and Bridgeport, Conn., to Penns Grove, N.J. Herbert H. Butler, 39 South Main Street, Mullica Hill, N.J., Attorney for applicants.

No. MC-FC 64590. By order of November 17, 1961, the Transfer Board approved the transfer to Semca Motor

Lines, Inc., East Elmhurst, L.I., N.Y., of Certificates Nos. MC 111837 and MC 111837 Sub 1, issued October 2, 1950 and January 29, 1953, respectively, to James J. Hession, doing business as Semca Motor Lines, East Elmhurst, L.I., N.Y., authorizing the transportation over irregular routes of airplanes, seaplanes, and parts thereof, between points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Delaware, Maryland, Virginia, West Virginia, North Carolina, and the District of Columbia within 450 miles of New York, N.Y., including New York, N.Y.; and commodities requiring special equipment and handling because of size or weight, and building and road construction material and machinery, over irregular routes, between points in New York and New Jersey within 75 miles of New York, N.Y., including New York; and between New York and White Plains, N.Y., on the one hand, and, on the other, points in that Part of Connecticut on and west of U.S. Highway 5. William D. Traub, 350 Fifth Avenue, New York 1, N.Y., Representative for applicants.

[SEAL]

HAROLD D. McCoy,  
Secretary.

[F.R. Doc. 61-11177; Filed, Nov. 24, 1961;  
8:48 a.m.]

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# FEDERAL REGISTER



VOLUME 26

NUMBER 227

Washington, Saturday, November 25, 1961

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## Uniform System of Accounts for Railroad Companies

# Title 49—TRANSPORTATION

## Chapter I—Interstate Commerce Commission

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. 32153]

## PART 10—UNIFORM SYSTEM OF ACCOUNTS FOR RAILROAD COMPANIES

### Revision of Regulations

At a session of the Interstate Commerce Commission, division 2, held at its office in Washington, D.C., on the 8th day of November A.D. 1961.

The Commission having under consideration a revision of the Uniform System of Accounts for Railroad Companies and the Notice of proposed rule-making pertaining thereto, published in the FEDERAL REGISTER August 24, 1961 (26 F.R. 7895) and the responses thereto; *It is ordered*, That the Uniform System of Accounts for Railroad Companies, Issue of 1957, as amended (49 CFR Part 10) be and it is hereby canceled in its entirety effective January 1, 1962 and the Uniform System of Accounts for Railroad Companies, Issue of 1962, attached

hereto and by this reference made a part of this order, be substituted for the text thereof; and,

*It is further ordered*, That the Uniform System of Accounts for Railroad Companies, Issue of 1962, shall become effective January 1, 1962, on and after which date all railroad companies subject to its provisions shall comply therewith; and,

*It is further ordered*, That the adoption of amended rules herein be without prejudice to further consideration of the request of the Transport Associates that the rules be amended to facilitate handling of matters affecting cost finding; and,

*It is further ordered*, That this order be served on each railroad company subject to its provisions, and on every trustee, receiver, executor, administrator, or assignee of such railroad company, and that notice be given the general public by depositing a copy in the Office of the Secretary at Washington, D.C., and by filing the order with the Director, Office of the Federal Register. (Sec. 20, 24 Stat. 386, as amended, 49 U.S.C. 20)

By the Commission, Division 2.

[SEAL]

HAROLD D. McCoy,  
Secretary.

### APPLICATION OF THE REGULATIONS

The Uniform System of Accounts for Railroad Companies (which are not independently operated as electric railroads), Issue of 1962, which is set forth hereinafter shall become effective as of January 1, 1962. The Uniform System of Accounts for Railroad Companies, Issue of 1957, together with the amendments and modifications of said issue, heretofore in effect, are superseded and canceled concurrently with the taking effect of the Issue of 1962, as herein prescribed.

#### LIST OF INSTRUCTIONS AND ACCOUNTS

- (i) Regulations prescribed.
- (ii) Definitions.

#### GENERAL INSTRUCTIONS

- 1-1 Classification of carriers.
- 1-2 Classification of accounts.
- 1-3 Records.
- 1-4 Accounting period.
- 1-5 Accrual method of accounting.
- 1-6 Unaudited items.
- 1-7 Delayed items.
- 1-8 Operating reserves.
- 1-9 Employees health and welfare benefits.
- 1-20 Items in texts of accounts.
- 1-21 Submission of questions.

#### INSTRUCTIONS FOR PROPERTY ACCOUNTS

- 2-1 Items to be charged.
- 2-2 Minimum rule applicable to additions to property.
- 2-3 Land.
- 2-4 Structures.
- 2-5 Equipment.
- 2-6 Components of construction cost.
- 2-7 Additions to and retirements of property—General.
- 2-8 Additions to and retirements of units of property.
- 2-9 Additions to and retirements of other than units of property.
- 2-10 Expenses in connection with additions and betterments.
- 2-11 Units of property rebuilt or converted.
- 2-12 Changes in line of road.
- 2-13 Relocation of yard tracks.
- 2-14 Merger, consolidation, and purchase of a railway operating entity or system.
- 2-15 Reorganization of railway.
- 2-16 Construction projects in which governmental agencies, individuals, or others, and the carrier participate.
- 2-17 Leased property improvements and retirements.
- 2-18 List of units of property.

#### INSTRUCTIONS FOR MAINTENANCE EXPENSES

- 3-1 Items to be charged.
- 3-2 Equalization of maintenance expenses.

#### INSTRUCTIONS FOR CLEARING ACCOUNTS

- 4-1 Items to be charged.
- 4-2 Material and stationery store expenses.
- 4-3 Shop expenses.
- 4-4 Gravel and sand pits and quarries.
- 4-5 Power plant operations.

#### INSTRUCTIONS FOR DEPRECIATION ACCOUNTS

- 5-1 Method.
- 5-2 Rates of depreciation.
- 5-3 Depreciation records to be kept.
- 5-4 Leased property—depreciation.
- 5-5 Jointly used property—depreciation.

#### INSTRUCTIONS FOR INCOME AND BALANCE SHEET ACCOUNTS

- 6-1 Current assets.
- 6-2 Recorded value of securities owned.
- 6-3 Discount, expense and premium on debt.
- 6-4 Discount, premium, and assessment on capital stock.
- 6-5 Joint liabilities.
- 6-6 Contingent assets and liabilities.

#### PROPERTY ACCOUNTS

##### Road

- 0 Road.
- 1 Engineering.
- 2 Land for transportation purposes.
- 2½ Other right-of-way expenditures.
- 3 Grading.
- 5 Tunnels and subways.
- 6 Bridges, trestles, and culverts.
- 7 Elevated structures.
- 8 Ties.
- 9 Rails.

- 10 Other track material.
- 11 Ballast.
- 12 Track laying and surfacing.
- 13 Fences, snowsheds, and signs.
- 16 Station and office buildings.
- 17 Roadway buildings.
- 18 Water stations.
- 19 Fuel stations.
- 20 Shops and enginehouses.
- 21 Grain elevators.
- 22 Storage warehouses.
- 23 Wharves and docks.
- 24 Coal and ore wharves.
- 26 Communication systems.
- 27 Signals and interlockers.
- 29 Power plants.
- 31 Power-transmission systems.
- 35 Miscellaneous structures.
- 37 Roadway machines.
- 38 Roadway small tools.
- 39 Public improvements; construction.
- 40 Revenues and operating expenses during construction.
- 42 Reconstruction of road property acquired.
- 43 Other expenditures; road.
- 44 Shop machinery.
- 45 Power-plant machinery.
- 47 Unapplied construction material and supplies.

[illegible]



## REGULATIONS PRESCRIBED

(1) *Regulations prescribed* Carriers by railroad subject to provisions of the Interstate Commerce Act and not independently operated as electric lines, and each lessor of such a carrier shall comply with regulations in this part as presented hereinafter

### (1) Definitions

1 Accounts means the accounts prescribed in this system of accounts

2 Actually issued as applied to funded debt securities or capital stock issued or assumed by the company means those which have been sold to bona fide purchasers or holders for a valuable consideration (including those issued in exchange for other securities or other property) and such purchasers or holders secured them free from control by the carriers. Also securities issued as dividends on stock

3 Actually outstanding as applied to funded debt securities or capital stock issued or assumed by the carrier means those which have been actually issued and are neither retired and canceled nor reacquired and held by or for the accounting company

4 Affiliated companies means companies or persons that directly or indirectly through one or more intermediaries control or are controlled by, or are under common control with the accounting carrier

5 Amortization means the gradual extinguishment of an amount in an account by distributing such amount over a fixed period over the life of the asset or liability to which it applies or over the period during which it is anticipated the benefit will be realized

6 Carrier as used herein and when not otherwise indicated in the context means any carrier to which this system of accounts is applicable

7 Commission means the Interstate Commerce Commission

8 Control (including the terms controlling controlled by and under common control with ) means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of a company whether such power is exercised through one or more intermediary companies or alone or in conjunction with or pursuant to an agreement, and whether such power is established through a majority of minority owner-

ship or voting of securities common directors officers or stockholders voting trusts holding trusts associated companies contract or any other direct or indirect means

9 Cost of removal means cost of demolishing dismantling tearing down or otherwise removing property

10 Debt expense means all expenses in connection with the issuance and sale of evidences of debt such as fees for drafting mortgages and trust deeds; fees for issuing or recording evidences of debt cost of engraving and printing bonds and certificates of indebtedness; fees paid trustees; specific costs of obtaining governmental authority; fees for legal services; fees and commissions paid underwriters brokers and salesmen for marketing such evidences of debt; fees and expenses of listing on exchanges; and other like costs

11 Discount as applied to funded debt securities or capital stock issued or assumed by the carrier means the excess of the par or face value of the securities plus interest or dividends accrued at the date of the sale over the cash value of the consideration received from their sale

12 Ledger value of property means the value at which the property is carried in the property investment account in the general ledger of the carrier. In case the value of any item of property is not shown separately in the ledger the ledger value of that item shall be its proportionate share of the value of the entire group in which the particular property is included

13 Minor items of property means the associated parts or items of which units of property are composed

14 Nominally issued as applied to funded debt securities or capital stock issued or assumed by the carrier means those which have been signed certified by trustees or otherwise executed and placed with the proper officer for sale and delivery or pledged or otherwise placed in some special fund of the accounting company

15 Nominally outstanding as applied to funded debt securities or capital stock issued or assumed by the carrier means those which after being actually issued have been reacquired by or for the accounting company under such circumstances which require them to be

considered as held alive and not retired and canceled

16 Premium as applied to funded debt securities or capital stock issued or assumed by the carrier means the excess of the cash value of the consideration received from their sale over the sum of their par or face value and interest or dividends accrued at the date of sale

17 Property retired means units of property which have been removed sold; abandoned destroyed or which for any cause have been permanently withdrawn from service; also minor items of property not replaced

18 Salvage value means the amount received for property retired or from the

salvage therefrom if sold; or if retained the amount at which the material and coverable is chargeable to material and supplies account or other appropriate account When such material is retained and again used by the carrier the salvage value shall be determined by deducting a fair allowance from current prices of the material as new

19 Service life means the period between the date when property is placed in service and the date of its retirement

20 Service value means the ledger value less the salvage value recovered therefrom

## GENERAL INSTRUCTIONS

**1-1 Classification of carriers** (a) For the purposes of applying this system of accounts carriers are divided into two general classes designated respectively Class I and Class II.

**Class I** Carriers having annual railway operating revenues of \$3 000 000 or more

**Class II** Carriers having annual railway operating revenues less than \$3 000 000

(b) Both Class I and Class II carriers shall keep the accounts prescribed herein except that a condensed grouping of primary operating expense accounts is provided for the use of Class II carriers. Class II carriers desiring to do so may maintain the primary accounts prescribed for Class I carriers but must be prepared to combine the accounts for the purpose of making entries in reports filed with the Commission.

(c) In applying the classification grouping to any switching or terminal company which is operated as a joint facility of owning or tenant railways the sum of the annual railway operating revenues, the joint facility rent income and the totals of the joint facility credit accounts in operating expenses shall be used in determining its class.

(d) This classification of carriers shall be based on the average annual railway operating revenues for the last three consecutive years; and if at the close of any calendar year the average of the annual railway operating revenues for the latest 3-year period is greater or less than the amount applicable to the class in which the carrier has been its class for the second succeeding year shall change accordingly and the carrier shall remain in such class for a period of not less than three consecutive years: *Provided*: That: (1) Carriers which have operated for a period less than three calendar years shall be classified upon the basis of the average of their annual railway operating revenues for the latest period of such operation; (2) newly organized carriers shall be assigned to classes as above defined on the basis of their railway operating revenue known or estimated for a year; and (3) carriers shall within 60 days after the close of a calendar year notify the Commission when a change in classification has taken place.

**1-2 Classification of accounts** (a) Accounts are prescribed to cover cost of property used in transportation operations and operations incidental thereto and for revenues expenses taxes rents and other items of income for such operations. Separate accounts are prescribed for investment in property not used in transportation operations and for other investments and income therefrom; for unusual profits and losses includible directly in retained income; and for assets liabilities and capital includible in the balance sheet statement.

(b) The cost of property and the revenues expenses taxes and rents for miscellaneous operations involving the use of such facilities as hotels restaurants grain elevators, storage warehouses power plants cold storage plants etc shall not be included in the accounts prescribed for transportation operations unless the operation of the facilities is conducted by the railway companies in connection with furnishing transportation services. Likewise the cost of property the revenues, expenses taxes and rents arising from the operation of stockyards shall not be included in accounts prescribed for transportation operations unless operation of the facilities is conducted in connection with transportation of livestock. It is not intended that cost of property and income arising from incidental public stockyards service rendered by stockyards primarily devoted to transportation services shall be excluded from transportation operation accounts.

(c) Joint facility accounts are provided for the joint users of tracks, bridges yards wharves stations and other facilities in which to record items in settlement for use of such facilities. When the compensation for the use of facilities is a fixed amount or is based upon a charge per passenger, ton, car or other unit, the amount shall be fairly apportioned by the operating company among the joint facility operating expense and income accounts. The creditor shall show the distribution of these charges upon its bills, and such distribution shall be adhered to by the debtor. Train service in connection with the line haul of traffic, including that operated under a joint arrangement for the benefit of two or more carriers is not considered a joint facility operation.

(d) All items of profit and loss recognized during the year are includible in net income except nonrecurring items which in the aggregate for the same class are both material in relation to net income for the year and are clearly not identified with or do not result from usual business operations of the year. Important items of the kind which occur from time to time and which when material in amount are to be excluded from net income are those resulting from unusual sales of property and investment securities other than temporary cash investments from company bonds reacquired and from delayed items (other than ordinary adjustments of a recurring nature). Material items are those which unless excluded from income accounts would distort the accounts and impair the significance of net income for the year so that misleading inferences might be drawn therefrom. Items so excludible, from net income are to be entered directly in the retained income accounts provided for such items.

**1-3 Records** (a) Each carrier shall keep its books of account and all other books records and memoranda which support the entries in such books of account so as to be able to furnish readily full information as to any item included in any account. Each entry shall be supported by such detailed information as will permit ready identification analysis and verification of all facts relevant thereto.

(b) The books and records referred to herein include not only accounting records in a limited technical sense, but all other records such as minute books stock books reports correspondence, memoranda etc which may be useful in developing the history of or facts regarding any transaction.

(c) No carrier shall destroy any such books or records unless the destruction thereof is permitted by the Regulations to Govern the Destruction of Records of Railroad Companies.

(d) In addition to prescribed accounts clearing accounts temporary accounts and subdivisions of any accounts, may be kept provided the integrity of the prescribed accounts is not impaired.

**1-4 Accounting period** Each carrier shall keep its books on a monthly basis so that known transactions as nearly as may be ascertained shall be entered

in the accounts not later than 60 days after the last day of the period for which the accounts are stated except that the time within which the final entries for the year ending December 31 shall be made may be extended to such date in the following March as shall not interfere with the preparation and filing of annual report.

**1-5 Accrual method of accounting** The accounting for operating revenues operating expenses income and other items each month and year shall be as nearly as practicable upon the basis of accruals consistently applied. Any change in practice of accounting for accruals or any unusual accruals involving material amounts shall be reported promptly to the Commission.

**1-6 Unaudited items** When it is known that a transaction has occurred which affects operating revenues operating expenses income and other accounts but the amount involved and its effect upon the accounts cannot be determined with absolute accuracy, the amount thereof shall be estimated and included in the appropriate income and balance sheet accounts. Such estimate shall be adjusted in the following month or as soon thereafter as the actual amount can be determined. If the estimate is not adjusted in the following month the amount shall be revised whenever and at the time a substantial change is indicated and the amounts in the balance sheet accounts with respect to such items shall be kept separately in the records until settled and adjusted. The carrier is not required to anticipate items which do not appreciably affect the accounts.

**1-7 Delayed items** Ordinary delayed items and adjustments arising during the current year which are applicable to prior years shall be included in the same account which would have been charged or credited if the item had been taken up or the adjustment made in the year to which it pertained. When the amount of a delayed item or adjustment is relatively so large that its inclusion in net income for a single month would seriously distort the accounts for the month (but not for the year) such amount may be distributed in equal monthly charges or credits as the case may be to the remaining months of the calendar year. See instruction 1-2(d) for instructions covering delayed items of a nonrecurring

## INSTRUCTIONS FOR PROPERTY ACCOUNTS

2-1 *Items to be charged.* (a) To the road and equipment property accounts shall be charged the cost of purchasing land and the cost of purchasing and constructing buildings, facilities and equipment and the cost of additions and betterments to property. Cost means the amount of money actually paid for property or services. When the consideration given for the property is other than cash in a purchase and sale transaction as distinguished from a transaction involving the issuance of capital stock in reorganization or a merger and pooling of interest the value of the consideration shall be determined on a cash equivalent basis. The carrier shall be prepared to furnish the Commission the particulars of its determination of the cash value of the consideration if other than money.

(b) Suitable records shall be maintained showing expenditures during the year for original road and equipment and road extensions; for merger and purchase of existing lines and reorganizations; for additions and betterments; and credits for property retired.

2-2 *Minimum rule applicable to additions to property.* An exception to the rule in instruction 2-1 is that when the cost of acquisition of units of road property and of additions and betterments to existing units of road property (other than land or tracks) is less than \$500.00 such cost shall be charged to operating expenses. The carrier shall not parcel expenditures under a general plan for the purpose of bringing the accounting for such expenditures within this minimum rule. An amount of less than \$500.00 may be adopted for purposes of this rule provided the carrier first notifies the Commission of the amount it proposes to adopt and thereafter makes no change in the amount unless authorized to do so by the Commission. An amount so adopted shall be adhered to in reporting property changes for valuation purposes.

2-3 *Land.* Accounts are provided for the cost of land used in transportation operations and also for land used in other than transportation operations. When land is retired from transportation operations but is retained by the carrier the original cost (estimated if

employees who work in more than one department or perform more than one class of service shall be apportioned to the appropriate primary accounts in the same ratio as their pay is distributed to primary accounts or may be distributed on some other equitable basis. Small amounts applicable to time spent on incidental or occasional duties may be included in the primary account appropriate according to the regular duty or predominant work assignment of the employees.

1-20 *Items in texts of accounts.* The items appearing in the texts of the accounts or elsewhere herein are for the purpose of more clearly indicating the application of the prescribed accounting. The items are intended to be representative but not exhaustive. The appearance of an item in the text of a primary account warrants the inclusion of the item in the account mentioned only when the whole text also indicates inclusion inasmuch as the same item frequently appears in more than one primary account. The proper entry in each instance must be determined by the whole text of each primary account.

1-21 *Submission of questions.* To maintain uniformity of accounting carriers shall submit questions of doubtful interpretation to the Commission for consideration and decision.

nature which are includible directly in retained income accounts.

1-8 *Operating reserves.* Accretions to reserve accounts made by charges to operating expenses, operating revenues or income shall not exceed a reasonable provision for expenses or other costs incurred during the accounting period. Balances for each year in each reserve account shall be kept separately until the items have been settled and adjusted and amounts shall not be diverted from the purpose for which provided unless permission of the Commission is first obtained.

1-9 *Employees health and welfare benefits.* (a) A primary account is prescribed in each of the general accounts in operating expenses in which to record premiums on group insurance policies for the benefit of officers and employees and other costs of employees health and welfare benefits whether under contract arrangements with labor organizations or otherwise. The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457 Pensions.

(b) The insurance premiums and other expenses that are directly or naturally assignable to primary accounts prescribed under each general account shall be distributed to such accounts. Premiums on policies and expenses incurred for the benefit of officers or em-

ployees shall be transferred to the account prescribed for property used in other than transportation operations. It is not contemplated that irregular parcels of land acquired in connection with acquisition of right of way which have no value as commercial property shall be thus transferred either for the purpose of making right of way boundaries run more or less regular or for the purpose of eliminating from transportation property account the cost of unoccupied lands between tracks in yards and terminals. When any land the cost of which is included in the accounts, is sold or otherwise retired the ledger value shall be credited to the appropriate property investment account. The profit or loss from sale or loss from retirement of land shall be included in the accounts prescribed for such amounts.

2-4 *Structures.* Accounts are provided for the cost of several classes of buildings and facilities, including fixtures permanently attached to and made a part thereof. When a building or other structure is used or held primarily for transportation operations and is an integral part of the carrier's transportation plant but a part thereof is used or held for commercial purposes such as for rental to others or for use in other than transportation operations by the carrier the entire cost of the building or other structure is includible in the accounts for transportation property. When a building or other structure is used or held primarily for commercial purposes or for use in other than transportation operations by the carrier the entire cost of the building or structure is includible in account 737 Miscellaneous physical property. Reclassification of property from its primary classification as transportation or other than transportation property as the case may be to the other classification is not required where changes in use are of a temporary nature or for a short period of time. The accounting for costs of maintenance, taxes and other operating costs and for revenues and rentals shall be consistent with the classification of the building or other structure.

2-5 *Equipment.* Accounts are provided for several classes of equipment such as locomotives, passenger-train cars, freight-train cars, work equipment, floating equipment and the necessary appurtenances, furniture and fixtures

first to equip for service including the cost of inspection setting up and trying out and transportation over foreign lines; also the cost of additions and betterments such as improved appliances, parts or appurtenances. In case retired equipment is held without being torn down, the estimated value of the salvage therefrom shall be included in account 741. Other assets until the salvage is recovered except that the estimated scrap value of retired equipment held for sale in the ordinary course of business and on which sale and realization of the proceeds within one year is assured is includible under current assets.

**2-6 Components of construction cost** The cost of constructing property includible in the property accounts shall include the direct and other costs as described hereunder:

(a) *Cost of labor* This includes the amount paid for labor expended by the carrier's own employees, including the cost of labor expended for preliminary work such as sinking test holes or making soundings for tunnels, grading buildings and other structures; and cost of labor expended in laying and taking up tracks for temporary use in construction except the cost of labor expended on tracks provided for the protection of traffic during the progress of addition and betterment work. Office expenses and traveling and other personal expenses of employees when borne by the carrier shall be considered a part of the cost of the labor, as shall also the cost of fidelity bonds and employers liability insurance premiums. When officers or employees are especially assigned to construction work their pay and their traveling and incidental expenses while thus engaged shall be included in the cost of the work. No charge shall be made against road and equipment accounts for the pay of officers and employees who merely render services incidentally in connection with extensions additions or betterments although traveling and incidental expenses incurred by such officers and employees solely on account of such work shall be included in the account to which the cost of the work is chargeable.

(b) *Cost of materials and supplies* This includes the purchase price of materials and supplies including small tools at the point of free delivery plus the cost of inspection and loading assumed by

the carrier; also a suitable proportion of store expenses. In calculating the cost of materials used proper allowance shall be made for the value of unused portions and of cuttings, turnings borings etc.; for the value of the material recovered from temporary tracks scaffolding cofferdams and other temporary structures used in construction; and for the value of small tools recovered and used for other purposes.

(c) *Cost of work-train service* This includes amounts paid to others for rent and maintenance of equipment used; cost of labor of engine men trainmen and enginehousemen including wages of engine crews and train crews held in readiness for such service; and cost of fuel and other supplies consumed in connection with the operation of work trains. It shall also include the cost of maintaining the carrier's own equipment used in construction service. Amounts representing constructive rent or return upon the investment in owned equipment shall not be included as a part of the cost of work-train service.

(d) *Cost of special machine service* This includes the cost of labor expended and of materials and supplies consumed in maintaining and operating power shovels scrapers rail unloaders, ballast unloaders pile drivers dredges ditchers weed burners and other labor-saving machines; also rents paid for use of such machines.

(e) *Cost of transportation* This includes the amounts paid to other companies or individuals for the transportation of men materials and supplies, special machine outfits, appliances and tools in connection with construction. Freight charges paid foreign lines for the transportation of construction material to the carrier's line shall be included so far as practicable as a part of the cost of the material.

(f) *Cost of contract work* This includes amounts paid for work performed under contract by other companies or individuals and costs incident to the award of the contract.

(g) *Cost of protection from casualties* This includes expenditures for protection against fire such as payments for discovery or extinguishment of fires cost of detecting and prosecuting incendiaries witness fees in relation thereto, amounts paid to municipal corporations and others for fire protection, and other

analogous items of expenditure incurred directly in connection with construction work.

(h) *Cost of injuries and damages.* This includes expenditures on account of injuries to persons or damage to property when incurred directly as a result of construction projects, and shall be included in the cost of the work in connection with which the injury or damage occurs. It also includes that portion of premiums paid for insuring property applicable to the period prior to the completion or coming into service of the property insured. Insurance recovered on account of compensation paid for injuries to persons incident to construction shall be credited to the accounts to which such compensation is charged and insurance recovered on account of damages to property incident to construction shall be credited to the accounts chargeable with the expenditures necessary for restoring the damaged property. The cost of injuries and damages incident to the removal of old structures or parts thereof shall be charged to operating expenses except that such costs in connection with the removal of old structures which are incumbrances on newly acquired lands shall be included in account 2. Land for transportation purposes or 3. Grading as may be appropriate.

(i) *Cost of privileges* This includes compensation for temporary privileges such as the use of public property or streets in connection with the construction of the property of the carrier.

(j) *Material excavated* The cost of disposing of material excavated in connection with construction shall be considered as a part of the cost of the work, except that when such material is used for filling the cost of removal and dumping shall be equitably apportioned between the work in connection with which the removal occurs and the work in connection with which the material is used.

**2-7 Additions to and retirements of property—General** (a) In accounting for additions to and retirements and retirements of road and equipment property (excluding land) used in transportation operations such property changes shall be considered as consisting of (1) units of property and (2) other than units of property (minor items). A list of units of property to be used for this purpose is prescribed in instruction 2-18.

(b) The cost of removal of retired property both depreciable and other than depreciable when borne by the carrier shall be charged, as may be appropriate to account 270. Dismantling retired road property, account 306. Dismantling retired shop and power plant machinery; or account 329. Dismantling retired equipment.

(c) An equitable proportion of any balance in primary accounts 1 and 72 to 80 both inclusive applicable to retired property shall be credited to those accounts concurrently with the retirement accounting.

**2-8 Additions to and retirements of units of property** (a) When a unit of road or equipment property is added to the plant the cost thereof shall be included in the appropriate primary account. When a unit of property is retired with or without replacement, the cost thereof shall be written out of the property account at time of retirement.

(b) When a unit of road or equipment property (or a minor item not replaced) classified as depreciable and included in the accounts prescribed for depreciable property is retired the service value shall be charged to account 735. Accrued depreciation—Road and equipment.

(c) When property (other than a minor item constituting repairs) classified as other than depreciable property is retired the cost thereof shall be cleared from the property account and the service value shall be charged to account 267. Retirement—Road except that the service value when material in amount in connection with retirement of a branch line segment of track; or other important facility constituting a permanent reduction in plant may be charged to account 613. Loss on sale or retirement of property if so authorized by the Commission.

(d) When property included in the depreciable accounts but excluded from the depreciation base is retired the service value (including engineering expenditures assignable to the retired property but not included in the depreciation base) shall be charged to operating expense.

**2-9 Additions and retirements of other than units of property** (a) When an item of road or equipment property other than a complete unit is added to the plant and the addition is not a replacement the cost thereof shall be ac-

with the accounting rules of the Commission. Such adjustments shall be included in retained income or the other accounts that would have been appropriate had the adjustments been made in the books of account of the predecessor company. In connection with such adjustments suitable provision may be made out of retained income to the extent available to provide reserves for any deficiency in past accrued depreciation on property classified as depreciable.

(2) When the total par or the stated value of no par capital stock issued or outstanding pursuant to the pooling of interests is more than the aggregate amount of the capital stock of the separate companies before such pooling of interests the excess shall be charged to capital surplus, if unrestricted capital surplus is available for such purpose; otherwise the excess shall be charged to retained income.

(3) When the total par or stated value of no par capital stock issued or outstanding pursuant to the pooling of interests is less than the aggregate amount of the capital stock of the separate companies before such pooling of interests, the difference for reduction in capital stock shall be credited to account 795 Paid-in surplus.

(4) Where the equities of the stockholders of one of the constituent corporations (except subsidiaries controlled through ownership of the majority of shares of voting stock) are clearly dominant and such stockholders obtain approximately 90 percent or more of the voting interests in the combined enterprise the transaction as a practical matter may when specifically authorized by the Commission be treated as a purchase (rather than a pooling of interests) and so accounted for in accordance with paragraph (c) of this instruction.

(c) Purchase:

(1) When the acquisition results from a purchase (except from subsidiaries controlled through ownership of the majority share of voting stock) including mergers or consolidations other than pooling of interests the amount includible in account 731, Road and equipment property, shall be the cost at the date of acquisition to the purchaser of the transportation property acquired. Other assets acquired or liabilities assumed shall be recorded in the appropriate balance sheet accounts

tracks may be dismantled in the process but the resulting track extensions or reductions shall be accounted for as additions or retirements, as appropriate and the betterment cost of improved parts applied shall be charged to property account.

2-13 *Relocation of yard tracks.* The cost of shifting or rearranging tracks within a yard shall be charged to operating expenses, even though the tracks may be dismantled in the process but resulting increases or decreases in grading ballast or track length shall be accounted for as additions or retirements, as appropriate and the betterment cost of improved parts applied shall be charged to the property accounts. Where tracks in whole or in part within a yard are determined to be no longer permanently used the ledger value of such tracks shall be eliminated from the property account. In case yard tracks and facilities are constructed in another location to take the place of tracks retired such tracks and facilities shall be accounted for as additions and the cost thereof shall be included in the property account.

2-14 *Merger, consolidation and purchase of a railway operating entity or system.* (a) When a railway or portion thereof constituting an operating unit or system is acquired by merger or consolidation in a pooling of interests or by purchase the cost of acquisition represented by cash, capital stock or other securities issued or assumed liabilities assumed, and other consideration shall be recorded in the accounts in the manner stated hereunder. Separate instructions are provided for a merger of subsidiaries.

(b) Pooling of interests:

(1) When the acquisition results from a merger or consolidation constituting a pooling of interests in which all or substantially all of the equity interests in predecessor companies continue as such in a surviving company or a new company created for the purpose, the road and equipment the other assets and the liabilities of the predecessor companies together with the balances in the amortization and depreciation reserves and the retained income accounts shall be recorded in the appropriate balance sheet accounts at the amounts shown in the accounts of predecessor companies adjusted as may be necessary to conform

tracks required for maintaining traffic during the progress of the work.

2-11 *Units of property rebuilt or converted.* (a) A unit of road property or equipment shall be treated as rebuilt or as converted in the circumstances described in the following paragraphs (b) and (c) of this instruction and such unit shall be accounted for as an addition and the old unit accounted for as retired from service.

(b) When the cost of renewals of a unit of road property or equipment exclusive of the expense of dismantling and of repairs of old parts reused exceeds fifty percent of the cost of a new unit of the same kind and class at that time this rule does not apply to renewal of a unit of roadway property when the replacement cost new does not exceed \$35,000.

(c) When a unit of road property or equipment is transferred from one class of service to another with or without physical conversion, and becomes includible in a prescribed primary investment account other than that in which the unit previously has been carried.

(d) The charge to the appropriate road and equipment account for rebuilt or converted units shall be the sum of (1) the cost (estimated if necessary) less a fair allowance for depreciation or the salvage value whichever is lower of the parts reused and (2) the cost of labor expended in rebuilding or in the conversion process and the cost of additional material applied. In no case shall the total amount charged to the property accounts for such units exceed the estimated cost of units of the same kind and class with a fair allowance for depreciation.

2-12 *Changes in line of road.* When changes are made in a line of road for the purpose of reducing curves or grades or to eliminate bridges tunnels or other physical features, the part of the line so changed shall be considered property retired and its ledger value credited to the property accounts. The new line of road including land, grading ballast track elements and other transportation facilities serving the road shall be considered an addition and the cost thereof to the carrier charged to the property accounts. The cost of such track changes which do not involve change in the existing roadbed shall be charged to operating expenses even though the

counted for in the same manner as an addition of a complete unit of property subject to the \$500 minimum rule applicable to road property. When an item of property other than a complete unit (minor item) is replaced independent of the complete unit of which it is a part, the cost of replacement shall be treated as maintenance and charged to operating expenses; except that, when the replacement effects a substantial betterment through the application of superior parts the primary aim of which is to make the property affected more useful, more efficient, of greater durability or of greater capacity the excess cost of new parts over the current cost of new parts of the kind replaced shall be charged to the appropriate primary property account. The cost of removing the old appliances and applying the improved parts shall be charged to operating expenses. (See instruction 2-8(b) covering retirement of a minor item not replaced.)

(b) The term current cost of new parts of the kind replaced shall not be construed as requiring an estimate based on the current price of parts or material identical with the parts or material replaced when such parts or material are no longer obtainable at reasonable price or would not be used if replacement without betterment were undertaken. In such cases the current cost shall be based on the fair and reasonable cost of parts or material comparable to those being replaced.

(c) When second-hand equipment acquired is in such physical condition that it is necessary to make extensive repairs to bring it up to the standard required by the carrier, the cost of such repairs shall be included in the account appropriate for the cost of the equipment.

2-10 *Expenses in connection with additions and betterments.* The cost of removing old material from equipment and from buildings bridges wharves tracks and other fixed improvements shall be charged to the appropriate operating expense accounts. Such charges shall include the cost of removing old foundations and filling old excavations and restoring condition of grounds after adding or protecting traffic during the progress of addition and betterment work including the cost of constructing maintaining and removing temporary

in conformity with the accounting rules of the Commission, and shall include provision for liabilities awaiting settlement and for such reserves as may be necessary.

(2) When the costs of individual units or classes of transportation property are not specified in the agreement the total purchase price shall be apportioned equitably among the appropriate primary accounts using as far as practicable for purpose of such apportionment the percentage relationship between such purchase price and original cost of property shown in valuation records prepared in accordance with the orders of the Commission. In the distribution of the purchase price to primary accounts on the basis of such apportionment the cost figures used for land shall be the cost reported in basic valuation reports under valuation order No 7. Land reported without cost in order No 7 except land donated shall be computed at its estimated original cost; and to such sum shall be added the original cost at time of dedication to transportation purposes of land subsequently acquired and now so used.

(d) Merger of subsidiaries:

The acquisition and merger of property of subsidiaries controlled through ownership of the majority shares of voting stock is to be accounted for as a pooling of interests or as a purchase depending on the circumstances in each case. Where control was initially acquired through issuance of capital stock to stockholders of the subsidiary the rule applicable to pooling of interests ordinarily is applicable. Where control was initially acquired through purchase of stock the rule applicable to purchase of property may be appropriate even though the shares were purchased gradually from time to time over a period of years in which event recognition of surplus since date of acquisition assignable to such shares may be proper. Journal entry pertaining to acquisition of property of subsidiaries shall be submitted to the Commission for consideration based on the principles herein and procedures for which there is authoritative support and the accounting for the merger shall become final only after approval by the Commission.

(e) Disposition of account 733. Ac-

(1) Amounts carried temporarily in former account 733. Acquisition adjustment canceled as of January 1, 1962, attributable to past mergers consolidated and purchases of property shall be cleared from that account and disposed of consistent with the principles in paragraphs (a) to (d) of this instruction 2-14; except that where the primary road and equipment accounts previously have been adjusted to original cost shown in the valuation records and past depreciation has been recorded such accounting is not to be reversed, unless otherwise authorized or directed by the Commission. In applying these instructions to the amount in former account 733. Acquisition adjustment attributable to a merger in a pooling of interests as described in paragraph (b) (1) of this section credits resulting from any increase that was made in the recorded cost of road and equipment property based on original cost shown in the valuation records in excess of the predecessor's book cost are to be included in account 80. Other elements of investments, reduction in the aggregate amount of capital stock is to be included in account 795. Paid-in surplus consistent with paragraph (b) (3) of this instruction; and the remainder of the amount is to be included in retained income, account 606. Other credits to retained income, consistent with paragraph (1) (2) and (4) of this instruction unless some special adjustment is now found to be necessary in conformity with the general principles in those paragraphs. Amounts carried temporarily in former account 733. Acquisition adjustment applicable to a purchase (as distinguished from a merger and pooling of interests) are to be transferred to account 80. Other elements of investment. Journal entries transferring amounts from former account 733. Acquisition adjustment shall be submitted to the Commission with suitable supporting detail for consideration and shall become final only after approval by the Commission. In an unusual situation where an amount in former account 733. Acquisition adjustment cannot be disposed of under the provisions of instructions in this paragraph the details of such an item shall be submitted to the Commission for consideration and decision.

(2) In clearing former account 733. Acquisition adjustment, pursuant to paragraph (e) (1) of this instruction provision may be made for any deficiency in depreciation reserve and also for such other items as may be specifically authorized or directed by the Commission. Amounts transferred to account 80. Other elements of investment are to be subsequently cleared as items of property are retired from service and in other ways as provided for in instructions in the text of that account.

2-15. *Reorganization of railway* (a) When a railway reorganization or receivership has been consummated the assets acquired, liabilities assumed and the capital stock or other securities issued or assumed and other consideration shall be recorded in the accounts in the manner stated hereunder. An adjustment of capitalization resulting in modification and reformation of classes of securities pursuant to voluntary action of the holders of securities but not resulting in a formal reorganization following a bankruptcy or other receivership proceedings (sometimes called a quasi-reorganization) is not covered by this instruction. 2-15. Reduction of capital stock and other contributions to capital by stockholders shall be recorded in accordance with the instructions in the text of account 795. Paid-in surplus.

(b) The amounts includible in primary road and equipment property accounts except land shall be recorded at original cost (estimated in valuation shown in the Commission's valuation records). Land shall be recorded at cost reported in basic valuation reports under valuation order No 7. Land reported without cost in order No 7 except land donated shall be computed at its estimated original cost; and to such sum shall be added the original cost at time of dedication to transportation purposes of land subsequently acquired and now so used. The cost of land so computed and the remaining assets and the liabilities of the predecessor companies adjusted as may be necessary to conform with the accounting rules of the Commission together with the balances in the amortization and depreciation reserves shall be recorded in the appropriate balance sheet accounts.

(c) When the amount recorded for assets acquired is more than the par or stated value of the capital stock in-

sued and other consideration paid including liabilities assumed the difference shall be applied to such extent as may be necessary and is available to provide reserves, first for any deficiency in past accrued depreciation on property classified as depreciable; and second, for any estimated loss from retirement of a branch line segment of track or other important facility indicated by supporting records to be imminent. The remaining amount of the difference if any shall be credited to account 80. Other elements of investment. The amount so credited to account 80 shall be cleared thereafter as property is retired and otherwise as may be authorized in accordance with the provisions in the text of that account.

(d) When the amount recorded for assets acquired is less than the par or stated value of no par capital stock issued and other consideration paid including liabilities assumed the difference shall be charged to account 80. Other elements of investment and shall thereafter be cleared in accordance with the provisions in the text of that account.

(e) Amounts carried temporarily in former account 733. Acquisition adjustment, attributable to a past reorganization shall be included in account 80. Other elements of investment or otherwise disposed of in conformity with the principles set forth in paragraphs (a) to (d) of this instruction 2-15. Any amount attributable to past reorganizations which cannot be disposed of pursuant to these provisions shall be submitted to the Commission for consideration and decision.

2-16. *Construction projects in which governmental agencies individuals or others and the carrier participate* (a) The amount includible in the property account for construction projects in which the carrier and governmental agencies individuals or others participate shall be (1) the payment made by the carrier for its share of the cost of construction plus (2) the recorded cost (estimated if unknown) of property relinquished as a direct result of the arrangement and retired from service less the value of salvage recovered therefrom by the carrier and less depreciation accrued on depreciable property which is part of the carrier's cost of the project. The amount includible in the non-

erty account shall be distributed equiva- bly among the primary accounts appli- cable to railway property constructed This amount shall first be applied to railway facilities includible in accounts other than 2 1/2 Other right-of-way expenditures or 39, Public improve- ments—Construction, then any remain- ing balance shall be included in account 2 1/2 or 39 as appropriate In no case shall the amount included in the primary accounts for the railway facilities ac- quired exceed the actual cost of con- structing such facilities The property account shall not include any cost or value for facilities or land contributed or paid for by governmental agencies in- dividuals or others Property acquired as a specific contribution to capital by stockholders does not come under this rule (See text of account 795 Paid-in surplus ) (b) Construction projects as used in this section means widening of high- ways, construction of spillways, drainage canals farm and other private passes pipelines drains or other facilities across the right-of-way; construction of over- head highway bridges and railroad bridges over public highways and across streams which provide a railroad use in the operation of trains and a public use in the uninterrupted passage of highway and river traffic; installation of warning signals to protect highway traffic; and industrial side tracks Also reconstruc- tion and relocation of tracks and ap- purtenant facilities such as occur in connection with carrying out flood con- trol reclamation and other public im- provement projects where it becomes necessary to abandon part of the line of railroad and relocate the tracks (c) Balances carried in former account 734 Donations and grants—Cr ; shall be cleared In making such clearance amounts representing donations for property now in service the cost of which is included in property investment ac- count shall be credited to the property investment account Any balance re- maining in former account 734 Dona- tions and grants—Cr which cannot be disposed of pursuant to this provision shall be promptly submitted to this Commission with carrier's recommenda- tions for consideration and decision Amounts (credits) in account 796 Other capital surplus representing donated property retired shall be trans-	ferred to account 190, retained 111-1 come—Unappropriated, 2-17 Leased property improvements and retirements The cost to lessee of structures facilities additions and bet- terments on leased property and for re- tirement of property the cost of which is included in account 732 Improvements on leased property, shall be accounted for in conformity with the principles in the instructions for property owned When property taken over in the lease is retired and replaced and lessee is not obligated to reimburse the lessor for the retired property other than through the replacement the lessee shall credit the ledger value of the retired property to account 732 Improvements on leased property as an offset to the cost of the replacement borne by lessee and charged to that account When lessee is obli- gated to reimburse the lessor currently or at the termination of the lease for property retired other than through re- placement, the lessee shall include the amount of the obligation in the appro- priate liability account The lessee shall furnish the lessor such information as is required to enable the lessor to perform necessary accounting The accounting by the lessee and the lessor shall be con- sistent with contractual arrangements 2-18 Lists of units of property (a) This list of units is established for the purpose of designating the units of prop- erty to be used in accounting for addi- tions to and retirements and replace- ments of property Detailed information is included in instructions 2-7 and 2-8 Items listed under road property ac- counts are subject to the minimum rule applicable to additions to property See instruction 2-2 pertaining to the mini- mum rule (b) This list of units will be revised from time to time as may be necessary to meet conditions A carrier desiring to include in any account an appropriate unit not now specified therein may upon approval of the Commission, make such authorized addition to this list of units (c) Rules applicable to units of prop- erty rebuilt or converted and to changes in line of road or tracks which involve accounting for units of property retired are set forth in instructions 2-11 2-12 and 2-13 Account 3 Grading A retaining wall riprap (hand placed) a protecting dyke a protecting crib a wing	Account 5 Tunnels and Subways The entire masonry entire timber and en- tire metal lining of a tunnel or subway in- cluding portals and wing walls Drainage Each entire installation Lighting Each entire installation Ventilation Each entire installation Account 6 Bridges Trestles and Culverts A steel superstructure A concrete or stone substructure. A concrete trestle a complete bridge or approach A timber trestle a complete bridge or ap- proach Complete machinery for operating a mov- able span A protecting dyke a protecting crib (a fender) a wing dam a complete culvert Each entire installation Account 7 Elevated Structures Any applicable units listed under account 6 Bridges trestles and culverts Account 13 Fences Snowsheds and Signs A complete snowshed One continuous mile of right of way fence One continuous mile of permanent sand or snow fence Account 16 Station and Office Buildings A complete building including attached platform A complete platform structurally detached from a building Each retaining wall installation Each timber trestle installation Each coal pocket installation Each outside steam water air etc pipe line installation Each storm or sanitary sewer installation A complete fence Paving Each complete installation A station stockyard Each complete in- stallation A track scale A track scale pit An outside crane or conveying system for handling freight A motor truck A motor tractor Any applicable units listed under other accounts Account 17 Roadway Buildings Any applicable units listed under account 16, Station and office buildings and 44 'Shop machinery Account 18 Water Stations A complete water supply piping system A dam or reservoir A pump house Account 19 Fuel Stations A trestle type coaling station Mechanical coaling station Each com- plete installation A complete fuel supply system including appurtenances A pump house A fuel oil storage tank (large) Account 20 Shops and Engine Houses A complete building including attached platform A complete platform structurally detached from a building A turntable A turntable pit A transfer table with machinery A transfer table pit A cinder pit Each complete installation. A sand storage and handling and drying apparatus Outdoor bins Each complete installation A smoke stack not mounted on boiler A lorry track system (outside) A boiler washing plant Each complete installation An overhead crane outside Each outside pipe installation steam air water, etc Each sewer installation storm or sanitary Paving Each complete installation Each shop fence or wall installation Any applicable unit under account 16 Station and office buildings Account 21 Grain Elevators A complete building including attached platform A complete platform structurally detached from a building A conveyor system complete An elevator system complete A blowing system complete For additional items see accounts 16 Sta- tion and office buildings and 44 Shop machinery Account 22 Storage Warehouses A complete building including attached platform A complete platform structurally detached from a building For additional items, see accounts 16 Sta- tion and office buildings and 44 Shop machinery Account 23 Wharves and Docks A timber float bridge A steel float bridge A wharf (including pile clusters) A timber incline
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<p>A bulkhead Jetties or breakwater Ferry racks (including pile clusters) Float racks Each complete machinery installation For additional items see accounts 3 Grading 6 Bridges trestles and cul- verts' and 44 Shop machinery Account 24 Coal and Ore Wharves Car dumper complete Timber bridges Steel bridges Each complete machinery installation A loading or unloading machine complete Each coal or ore pocket installation For additional items, see accounts 6 Bridges trestles and culverts 16 Station and office buildings 20 Shops and engine houses 23 Wharves and docks' and 44 Shop machinery Account 26 Communication Systems A complete mile section or complete in- stallation if less than a mile of pole line including cross arms wires and appurte- nances Each mile or complete installation of cable with associated parts Each mile or complete installation of con- duit with associated parts A complete tower A complete installation at each location constituting a separate means of commu- nication, such as radio radar carrier tele- phone teletype or other communication systems For additional items see account 16 Sta- tion and office buildings' Account 27 Signals and Interlockers A signal system installation complete or section thereof with associated parts in- cluding masts batteries, relays ladder etc A complete mile section or complete in- stallation if less than a mile or pole line including cross arms wires and appurte- nances Each mile or complete installation if less than one mile of cable with associated parts Each mile or complete installation if less than one mile of conduit with associated parts. Switch movement with associated parts A complete building An interlocking plant complete (excluding machine). An interlocking machine Signal bridge complete Each highway crossing protection instal- lation complete. Each car retarder installation complete A traffic control or CTC system installa- tion complete Account 29 Power Plants Any applicable units listed under accounts 16 Station and office buildings' and 20</p>	<p>Account 31 Power Transmission Systems A continuous mile, or a separate installa- tion if less than a mile of catenary complete including catenary hangers trolley wire and appurtenances A continuous mile or a separate installa- tion if less than a mile of transmission line including poles wires transformers switches and other appurtenances Each outside steam, air etc pipe line installation A manhole Substation or switching station complete Each mile, or installation if less than a mile of third rail A catenary bridge or support A high tension transmission tower Any applicable units listed under accounts 26 'Communication systems' and 27 Signals and Interlockers' Account 35 Miscellaneous Structures Any applicable units listed under other accounts Account 37 Roadway Machines Each roadway machine complete including accessories Account 39 Public Improvements— Construction Any applicable units listed under other accounts Account 44 Shop Machinery A machine (including foundation and mo- tor if any), such as lathes shapers slotters boring machines Equipment such as ash handling A furnace A boiler installation complete A motor vehicle used in shops only Testing equipment Overhead crane complete Account 45 Power Plant Machinery A power plant machine including founda- tion such as a turbine rectifier dynamo generator Any applicable unit listed under account 44 Shop machinery Account 51 Steam Locomotives A complete locomotive A locomotive exclusive of tender. A tender A locomotive booster Account 52 Other Locomotives Diesel electric lead or booster 16 A or B units Diesel electric Extra or spare motors Electric locomotive Gasoline locomotive Gas turbine locomotive Account 53 Freight Train Cars A complete car</p>	<p>A propulsion motor including generator A freight container complete Account 54 Passenger Train Cars A complete car including interior fur- nishings Motor equipment of a motor driven car A propulsion motor including generator Account 56 Floating Equipment A complete vessel or boat exclusive of machinery Machinery: a boiler a motor an engine Account 57 Work Equipment (a) Rail equipment: (1) A complete car or machine (2) A boiler (3) An engine (4) A motor Any applicable units listed under other accounts Account 58 Miscellaneous Equipment A complete vehicle</p>	<p>(3) An engine (4) A motor (5) Machinery equipment (with or with- out tractive machinery) such as concrete mixer snow plow derrick steam shovel or pile driver (6) A complete motor equipment (b) Floating equipment—Work: (1) A complete vessel or boat (2) A boiler (3) An engine (4) A motor Any applicable units listed under other accounts Account 58 Miscellaneous Equipment A complete vehicle</p>
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Equalization reserves in accordance with the foregoing paragraph shall be cleared therefrom at the close of each calendar year through the equalization accounts originally charged or credited

If certain primary accounts only are budgeted the carrier's records shall show for amounts included in the equalization accounts the amount of the equalization assignable to each such primary account

properly made, and the running of repaired locomotives light in order to break them in for regular service; incidental costs of repairs such as the construction or removal of false work in connection with maintenance cost of demolishing retired road property and disposing of the wreckage therefrom when the property is dismantled by or for the carrier; cost of maintaining or protecting traffic during the progress of constructing main- including the cost of constructing main- taining and removing temporary tracks required for maintaining traffic during the progress of the work; cost of mowing and beautifying grounds around build- ings; repairing fences sidewalks drive- ways and streets within or adjacent to such grounds; cost of removing snow from roofs of buildings (when not re- moved by those employed in the build- ings); cost of periodical restoration of seasonal features such as gardens shrubbery and lawns; cost of operating hothouses in connection with the work of beautifying grounds; and cost of clearing and removing casual incum- brances such as ice snow and fallen timber

(d) Distinct maintenance accounts have been provided for expenses of a general character such as superinten- dence stationery and printing and in- juries to persons, which on account of established practice it is deemed advis- able to segregate

3-2 *Equalization of maintenance ex- penses* (a) The cost of maintaining way and structures and equipment shall be included in the appropriate primary accounts in the month in which the ex- pense is incurred. In case the carrier adopts a budget or estimate for all or a part of the calendar year of expenses includible in one or more primary main- tenance accounts or for the general ac- counts 200 Maintenance of way and structures, and 300 Maintenance of equipment, an equitable monthly pro- portion of the difference between the budgeted or estimated expenses and the actual expenses chargeable each month may be debited or credited as appropri- ate to account 280 Equalization—Way and structures or account 338 Equal- ization—Equipment with contra entries

EXPENSES

3-1 *Items to be charged* (a) The accounts provided for maintenance of road property and of equipment are de- signed to show the cost of repairs and also the loss through depreciation of the property used in transportation opera- tions including expenses resulting from ordinary wear and tear of service ex- posure to the elements inadequacy obsolescence or other depreciation, or from accident fire flood or other casualty

(b) These accounts shall include the cost of labor materials and supplies, work-train service floating equipment work service special machine service contract work privileges protection from casualties and other analogous items of expense in connection with the maintenance of the plant used in railway service. The cost of materials and sup- plies which shall include small tools shall include the cost at the point of free delivery plus freight charges of foreign lines and the costs of inspection and loading assumed by the carrier; also a proportion of store expenses. Such cost shall not include expenses of transpor- tation over the carrier's line. Royalties for patent rights on mechanical appli- ances used in repairs of equipment shall be included in the cost of the repairs. The cost of boarding traveling, and other incidental expenses of employees shall be included in the accounts to which the pay of the employees is chargeable except where otherwise specified in the text of the accounts. In calculating the cost of materials used proper allowance shall be made for the value of unused portions and of cuttings turnings borings etc and for the value of the material recovered from property repaired and from temporary tracks scaffolding cofferdams and other tem- porary structures used in repair work

(c) The cost of repairs shall include the cost of inspecting to determine the repairs necessary and of adjusting or repairing parts both of road property and of equipment such as the repairing of locomotives cars frogs switches rails etc; the cost of inspecting and testing after repairs have been made such as the testing of locomotives after repairs to

## INSTRUCTIONS FOR CLEARING ACCOUNTS

4-1 *Items to be charged.* In recognition of the fact that certain expenditures incident to the construction and the operation of property are not chargeable directly to any particular property investment or expense account clearing accounts have been provided for the purpose of securing an equitable distribution of such items to the proper primary accounts, as hereinafter set forth.

4-2 *Material and stationery store expenses.* (a) To clearing accounts called "Material store expenses" and "Stationery store expenses" shall be charged expenses in connection with purchasing handling and storing material and stationery in and distributing it from the company's storehouses including the pay of officers and employees in the purchasing and store departments and their traveling office, and other expenses; also expenses including wages fuel and supplies of operating switching locomotives when exclusively assigned to the service of switching at material storehouses (Expenses of incidental switching at material yards by locomotives in regular switching service shall be charged to the appropriate transportation accounts). The pay and expenses of men employed in purchasing or inspecting a single class of material, such as ties shall be added as store expenses to the cost of that particular material.

(b) The total amount of storehouse expenses charged to these accounts shall be so distributed among the accounts to which material and stationery has been charged that the amounts thus distributed will be for each account in proportion to the value of the items issued chargeable thereto except that the amount representing the purchasing department expenses shall be apportioned on the value of the items issued which were purchased by that department. To avoid monthly fluctuations in the ratio of store expenses to the value of material and stationery purchased or issued carriers may make a monthly apportionment on the basis of fair percentage rates, provided the store expense accounts are adjusted and closed out at the end of each year.

4-3 *Shop expenses.* (a) A clearing account entitled "Shop expenses" shall be kept to which shall be charged items of expense at shops enginehouses repair

tracks and other places at which mechanical work is done not assignable directly to specific accounts. Such expenses shall be apportioned among the various accounts affected. The basis of distribution shall be the relative proportion which the total amount of charges to Shop expenses bears to the total of the directly distributed labor. To avoid monthly fluctuations in the ratio of shop expenses to the total of distributed labor carriers are permitted to make the monthly apportionment on the basis of a percentage of the distributed labor provided the shop expense account is adjusted and closed out at the end of the year.

(b) The expenses assignable to this account shall include the pay of foremen (who exercise supervision over all departments) their clerks and other employees engaged in general work in and about shops cost of heat light and power; cost of small tools and supplies and water and power purchased; also cost of removal of snow and ice from transfer tables and shop yards, and other incidental shop expenses. To this account shall be charged expenses, including wages fuel and supplies of operating switching locomotives when exclusively assigned to switching service at shops (the expenses of incidental switching at shops by locomotives in transportation switching service shall be charged to appropriate transportation accounts).

4-4 *Gravel and sand pits and quarries.* (a) When a gravel or sand pit or quarry is opened for operations likely to extend over a long period an account shall be set up designated "Operations of gravel pit at -----" or "Operations of quarry at -----" as the case may be. To this account shall be charged cost of the land in excess of its estimated value after the gravel, sand, or stone has been removed (credit to the property account in which the cost of the land is included); payments for right to enter upon and remove ballast from land not owned by the carrier; cost of sinking test holes; and costs preparatory to opening the pit or quarry. To this account shall be charged also the cost in excess of the estimated salvage value of rails and fastenings ties other material and labor used in constructing tracks to and in the gravel pit or quarry (the estimated salvage being carried in an appropriate suspense account); cost of labor and train service employed in producing quarrying, and loading ballast including the cost of operation repairs, and depreciation of power shovels and other machines and machinery; pay and expenses of watchmen; cost of explosives and hand tools and miscellaneous expenses; and cost of installing operating and maintaining signals and interlockers at gravel pits.

(b) Credit to the clearing account shall be made each month to cover the cost of ballast material produced during the month. The cost of production shall include the expenses directly assignable to the monthly output plus a proportion of the expenses not directly assignable such as cost of land, tracks, machinery, and interlockers. This latter amount shall be computed upon the basis of the ratio which the monthly output bears to the total estimated yardage to be taken from the pit. When any portion of the product of such pits or quarries is sold the cost thereof shall be credited to this clearing account and the profit thereon if any shall be credited to revenue account 143 Miscellaneous.

4-5 *Power plant operations.* (a) The accounting for the expenses of maintaining and operating an electric, steam or other power plant (both building and machinery) shall be determined by the purpose for which the power produced is used. When a power plant is intended and used for producing power solely for the carrier's own operations and the cost of operating the plant is chargeable to clearing account "Shop expenses" or to any one specific account for operating expenses the expenses of maintenance shall be charged to the appropriate maintenance accounts and the cost of operation to the account appropriate according to the use of the power plant operations.

(b) When the power from such a plant is properly chargeable to more than one account the expenses of maintaining and operating the plant shall be included in clearing account designated "Power plant operations." The expense of maintenance shall be cleared from that account to the appropriate maintenance accounts. The expenses of operation shall be apportioned to the appropriate accounts upon the basis of quantity of power used for the various purposes.

(c) When a part of the power produced by a power plant is sold and the remainder is used in the carrier's own operations, the cost of maintaining and operating the plant shall be charged to a clearing account. The expense of maintenance shall be cleared from that account to the appropriate maintenance accounts. The proportion of the expenses of operation assignable to the power sold on the basis of ratio of quantity of power sold to total quantity of power produced shall be credited to this clearing account and charged to account 445, Producing power sold. The remainder of the cost of operation shall be distributed to the appropriate expense accounts for the carrier's own operations.

(d) When power plants are intended and used solely for furnishing power to others the investment therein shall be included in balance sheet account 737 Miscellaneous physical property and the revenues and operating expenses shall be included in the accounts provided for operations of such property.

(e) The accounting for the maintenance of transmission systems and distribution systems shall be in accordance with instructions pertaining to power plant operations.

INSTRUCTIONS FOR DEPRECIATION ACCOUNTS

5-1 Method (a) There shall be charged monthly to operating expenses or other appropriate accounts and credited to account 735. Accrued depreciation—Road and equipment during the service life of depreciable road and equipment property includible in accounts classified as depreciable amounts which will approximate the loss in service value not restored by current repairs or covered by insurance. The charges for accruing depreciation currently shall be computed in conformity with the group plan by applying to the cost of property such percentage rates as will distribute the service value by the straight-line method in equal annual charges to operating expenses or other accounts during the estimated life of the property. For road property the cost shall be original cost or estimated original cost as used in the valuation records adjusted to current date. If a carrier submits proof that the actual cost of depreciable property is substantially different from cost figures in the valuation records the carrier may with the approval of the Commission use such cost figures as the depreciation base.

(b) The term group plan means the plan under which depreciation charges are accrued upon the basis of the cost of depreciable property includible in accounts classified as depreciable using the service lives of the individual depreciable units in the accounts and properly weighting to determine the composite annual rate of depreciation.

(c) For the purpose of the group plan of depreciation accounting the following primary accounts are classed as depreciable accounts:

- 1 Engineering (as appropriately assigned but not distributed to the other depreciable accounts in arriving at the amounts used as the depreciation base)
- 2½. Other right of way expenditures
- 3. Grading (depreciable property recorded in this account)
- 5 Tunnels and subways
- 6 Bridges trestles and culverts
- 7 Elevated structures
- 13 Fences snowsheds, and signs
- 16 Station and office buildings
- 17 Roadway buildings
- 18 Water stations

- 19 Fuel stations
- 20 Shops and enginehouses
- 21 Grain elevators
- 22 Storage warehouses
- 23 Wharves and docks
- 24 Coal and ore wharves
- 26 Communication systems
- 27 Signals and interlockers
- 29 Power plants
- 31 Power transmission systems
- 35 Miscellaneous structures
- 37 Roadway machines
- 39 Public improvements—construction
- 44 Shop machinery
- 45 Power plant machinery

Note: With respect to accounts 2½, 3, 5 and 39 carriers may confine the accruals to the depreciable property recorded therein by applying the percentage rates to the aggregate cost of such property (omitting non-depreciable property) in computing depreciation charges or they may request composite percentage rates to be applied to the total amount recorded in each of the accounts in computing depreciation charges.

- Equipment accounts:
- 51 Steam locomotives
  - 52 Other locomotives
  - 53 Freight train cars
  - 54 Passenger train cars
  - 56 Floating equipment
  - 57 Working equipment
  - 58 Miscellaneous equipment

(d) When abandonment of a branch line or other important segment of the track structure or other part of the plant for which depreciation charges are not includible in the accounts is foreseeable within a reasonable period of time due to exhaustion of traffic obsolescence or other causes application may be made to the Commission for authority to create a suitable reserve in anticipation of probable loss.

5-2 Rates of depreciation (a) A separate composite annual percentage rate for each account covering depreciable property shall be used in computing depreciation charges. Such composite rates shall be those which are from time to time prescribed or otherwise authorized by the Commission. Where property is acquired for which no rates have been prescribed or otherwise authorized and also in the event annual percentage rates prescribed for any class or type of property become no longer currently applicable because of material changes in property, premature obsolescence, exhaustion of traffic or other causes not given effect in the existing rates carriers shall so inform the Commission promptly and at that time shall

submit revised annual percentage rates and supporting details developed in accordance with the method indicated in instruction 5-1.

(b) In computing monthly charges the annual percentage rates shall be applied to the depreciation base as of the first of each month and the result divided by twelve.

5-3 Depreciation records to be kept (a) The carrier shall maintain for each class of property in convenient and accessible form engineering and other data bearing on prospective service lives; and shall be prepared at any time upon direction of this Commission to compute and submit for approval new percentage rates to take the place of those based on service lives or value of salvage deemed to be inaccurate.

(b) The carrier also shall keep such records of depreciable property and property retirements as will reflect the service life of each class of property which has been retired or will permit the determination of service life indications by past experience of useful life tenure of comparable property turnover, or other appropriate methods; also such records as will reflect the percentage of value of the salvage for property retired from each class of depreciable property.

(c) For purposes of analysis the carrier shall maintain subsidiary records in which the reserve is broken down into component parts corresponding to each primary account showing in these records in complete detail by each primary account the current credits and debits to the reserve. Such detailed information shall be reported annually to this Commission. For balance sheet purposes, the depreciation reserve shall be treated as a single composite reserve for property.

5-4 Leased property—depreciation (a) The carrier shall include in operating expenses charges for depreciation on road property and equipment used but not owned the rent for which is includible in rent for leased roads and equipment and shall maintain the same records of service lives salvage values etc. as provided for owned road property and equipment. The excess of the total compensation paid over the amount chargeable for depreciation shall be included in the rent account. If settlement between the carrier and the lessor is not currently made, the amount of the depreciation accrued during the period of the lease shall be credited by the carrier to account 785. Accrued depreciation—Leased property. The necessary adjustments of the difference between the balance thus accrued in that account and the actual amount of settlement shall appropriately be made through account 519. Miscellaneous income 551. Miscellaneous income charges, or retained income at the time settlement for depreciation on the property is made with the lessor.

(b) The carrier shall not include in the depreciation account in operating expenses any charges for depreciation of equipment used but not owned when the rents therefor are included in the rent for equipment and joint facility rent accounts.

5-5 Jointly used property—depreciation The owning carrier shall include in the depreciation accounts in operating expenses the charges for depreciation on units of depreciable property jointly used with one or more other carriers. The owning carrier shall credit and each using carrier shall charge the appropriate joint facility accounts in operating expenses with the amounts billed by the owning carrier against each using carrier for its proportion of the service loss on property retired from service whether billed currently as depreciation or when retirements occur as the loss in service value. The using carriers shall be required to account for depreciation or retirement of units of road property jointly used but not owned only to the extent of their contract liability. The same principle shall apply to terminal companies and their nonowner tenants in accounting for depreciation accruals or retirements charges recorded in the accounts of the terminal companies.

## INSTRUCTIONS FOR INCOME AND BALANCE SHEET ACCOUNTS

**6-1 Current assets** In the group of accounts designated as current assets shall be included cash, those assets which are readily convertible into cash or are held for current use in operations current claims against others and amounts accruing to the carrier which are subject to settlement in the ordinary course of business within one year. There shall not be included in this group of accounts any amount the collection of which is not reasonably assured within one year because of the known financial condition of the debtor or otherwise. Such items shall be included in account 741. Other assets at an amount not in excess of a reasonable estimate of realizable value of current character but of doubtful value previously credited to operating revenue, operating expense, income or other accounts shall be written down or written off by charging those accounts. Adjustment of these items of doubtful value shall be made by direct reduction of the asset account in which such doubtful items are carried or by a separate reserve for the uncollectible amount, which reserve shall be applied as a reduction of the current asset account in the balance sheet statement. Provision likewise shall be made for any significant loss due to obsolescence in material and supplies. If it is desired to retain a record of assets written off they shall be recorded at a nominal value in account 741. Other assets

**6-2 Recorded value of securities owned.** The investment in securities other than those issued or assumed by the accounting company shall be recorded in these accounts at the money value, at the time of acquisition of the consideration given therefor by the accounting company but excluding amounts paid for accrued interest and accrued dividends. The accounting company shall write down the ledger value of any securities to the extent of impairment in their value or write off entirely if there is no reasonable prospect of realizing any value therefrom but fluctuations in market value are not to be recorded. Adjustments in the ledger values of securities shall not be delayed beyond the year in which a loss is claimed for income tax purposes. The amount of the adjustment for loss in value written off may be recorded in the

accounts by creating a reserve for such loss through concurrent credits to account 723, Reserve for adjustment of investment in securities. Losses in value of securities written off shall be charged to account 551. Miscellaneous income charges, or to retained income as appropriate. Under no circumstances shall securities be stated in these accounts at an amount in excess of their cost to the accounting company.

**6-3 Discount expense and premium on debt.** (a) Ledger accounts shall be provided to cover the discounts expense, and premiums at the sale or resale of each subclass of funded debt and of receivers and trustees securities issued for the benefit of or assumed by the company. (For explanation of subclass see account 765. Funded debt unamortized.) The net debit balances remaining in these ledger accounts shall be included in account 742. Unamortized discount on long-term debt and the total of the net credit balances in account 783. Unamortized premium on long-term debt.

(b) Each fiscal period there shall be charged to income account 548. Amortization of discount on funded debt a proportion on a consistent basis of each of the debit balances in these accounts and correspondingly there shall be credited to income account 517. Release of premiums on funded debt, a similar proportion of each of the credit balances in these accounts. When the total discount and expense applicable to any particular issue of securities does not exceed \$25,000, carriers may charge the entire amount to account 548. Amortization of discount on funded debt at time of issue.

(c) When any funded debt which has been actually issued to bona fide holders for value is reacquired by the accounting company that proportion of the balance remaining in accounts containing discount, expense and premium on funded debt for the subclass of the security reacquired shall be credited to the portion thereto as may be appropriate and currently charged or credited to account 519. Miscellaneous income account 551. Miscellaneous income charges or to retained income as may be appropriate in accordance with the texts of these accounts. Such proportion shall be based upon the ratio of the par value

of the security reacquired to the par value of all the securities of the subclass actually outstanding immediately before such reacquirement.

**6-4 Discount premium and assessment on capital stock.** (a) Separate ledger accounts shall be provided for each subclass of capital stock issued or assumed by the accounting company to cover discount suffered and premium realized at the time of sale of capital stock. General levies or assessments against stockholders shall be credited to the appropriate ledger accounts for the subclass of capital stock against which the levy or assessment is made.

(b) The total of net debit balances in these ledger accounts shall be included in account 793. Discount on capital stock, and the total of net credit balances in account 794. Premiums and assessments on capital stock.

(c) Discount on each subclass of capital stock may be offset or reduced by charges to account 794. Premiums and assessments on capital stock to the extent that net gains from premiums or assessments have been included therein or to account 795. Paid-in surplus to the extent that net gains from reacquisition and resale or retirement of capital stock applicable to such subclass have been included therein. Any remaining discount may be amortized by charge to account 616. Other debits to retained income or may be retained and carried in account 793. Discount on capital stock until the stock to which the discount applies is retired.

(d) In case the accounting company is permitted and elects with the approval of the Commission to distribute all or any part of the net balance of paid-in surplus to its stockholders the amount thus distributed shall be charged to account 795. Paid-in surplus.

(e) When an issue of capital stock or any part thereof is reacquired either by purchase or through donations by shareholders and is not canceled but is held as treasury stock or in sinking or other funds such stock shall be included in a subdivision of account 791. Capital stock issued, if treasury stock and in accounts 715. Sinking funds, 716. Capital and other reserve funds or 717. Insurance and other funds as may be appropriate, if the stock is held alive in a fund of the character described in the respective accounts. The reacquired

stock shall be included in such accounts at par value or if stock without par value at the proportionate amount at which the particular class of stock is carried in account 791.

(f) The difference between the amount at which such reacquired stock was recorded in account 791. Capital stock issued and the amount paid by the accounting company for such stock including any premium or discount applicable to such subclass carried in account 794. Premiums and assessments on capital stock, or in account 793. Discount on capital stock and the commissions and expense in connection with its reacquisition shall be included in account 795. Paid-in surplus; *Provided however* That the excess of a debit over the amount of accumulated net gains applicable to such subclass included in paid-in surplus shall be charged to account 616. Other debits to retained income.

(g) When reacquired capital stock is resold the difference between the net sale price and the amount at which carried as treasury stock shall be included in account 795. Paid-in surplus; *Provided however* That the excess of a debit over the amount of accumulated net gains applicable to each subclass of capital stock resold included in paid-in surplus shall be charged to account 616. Other debits to retained income.

**6-5 Joint liabilities.** The accounting company shall state as a liability in its balance sheet the difference between the total par value of securities jointly or severally issued by it and others and the portion of such liability which under the joint arrangement it is expected will be liquidated by the other party or parties to the joint arrangement. The amount of the jointly or severally issued securities it is expected will be liquidated by the other party or parties shall be shown as a contingent liability in accordance with instruction 6-6 pertaining to contingent assets and liabilities.

**6-6 Contingent assets and liabilities.** Contingent assets and liabilities shall not be included in the body of the balance-sheet statement, but items of material amount shall be shown in a supplementary statement to the balance-sheet. Contingent assets are those without value to the accounting company until the fulfillment of conditions

**NOTE D:** The cost of stationery and printing supplies used for accounting purposes in connection with engineering work shall be included in account 74 "Stationery and printing" when not directly assignable to specific road or equipment accounts.

**NOTE E:** Fees and expenses of architects specially employed for designing or supervising the construction of buildings shall be included in the accounts appropriate for the cost of the buildings constructed.

## 2 Land for Transportation Purposes

This account shall include the cost of land of necessary width acquired for roadway; the cost of land for station office shop and other grounds; for ingress to or egress from such grounds; for borrow pits waste banks snow fences sand fences, and other railway appurtenances; and for storage of material adjoining the right of way; the cost of land for wharves and docks and the cost of riparian or water rights necessary therefor; the cost of removing from the right of way and locating elsewhere the property of others and the cost of the necessary land for relocation of the property when such costs are assumed by the accounting carrier.

The carrier's records shall be kept in such manner as to show separately the cost of land purchased. Proceeds from the sale of timber or of improvements purchased with right of way, less any cost of removal shall be credited to this account.

### ITEMS OF EXPENSE

Abstracts  
Appraisals  
Arbitrators in condemnation cases  
Commissions paid to others  
Condemnation expenses including court costs and special counsel fees  
Damages to property of others  
Deferred payments for right-of way  
Ditches for waterways when part of consideration  
Judgments and decreed costs to clear or defend titles  
Notarial fees  
Plats  
Premiums on condemnation bonds  
Recording deeds  
Payments for relinquishment of cattle passes and other rights  
Removal and relocation of buildings and other structures not purchased  
Rent of land when part of consideration for purchase  
Right of way agents compensation (engaged solely in acquiring right of way)

## PROPERTY ACCOUNTS

### Road

**0 Road**  
The several primary accounts included in this general account are designed to show the cost of land and road property owned by the carrier and devoted to transportation service.

#### 1 Engineering

This account shall include the pay and expenses of engineers assistants, and clerks engaged in the survey and construction of new lines and extensions or in making additions to and betterments of the carrier's road including wharves and docks.

#### LIST OF OFFICERS AND EMPLOYEES

Chief engineer  
Assistant engineers  
Bridge and signal engineers  
Architects and draftsmen  
Chief clerk and other clerks  
Transitmen and levelmen  
Rodmen and chainmen  
Cooks and porters on business cars

#### ITEMS OF EXPENSE AND SUPPLIES

Atlases and maps  
Barometers  
Books for office use  
Business car services  
Cameras; compasses  
Camp equipage  
Chains for surveyors  
Drawing boards  
Drawing instruments  
Field glasses  
Furniture repairs and renewals  
Heating and lighting  
Magnets and magnetometers  
Official train service  
Paper blue print  
Periodicals and newspapers  
Photographic supplies  
Printing and stationery  
Provisions for business cars  
Rent and repairs of offices  
Rods for surveyors  
Sextants and slide rules  
Telegraph and telephone service  
Traveling expenses  
Triangles and tripods

**NOTE A:** When employees designated above are engaged in the maintenance of the road, their pay and expenses while thus employed shall be charged to operating expenses.

**NOTE B:** Expenditures for tentative or preliminary surveys shall be carried in a suspense account until it is determined whether or not to continue the work. If the project is continued, expenditures for all surveys in connection therewith shall then be transferred to this account and if abandoned to operating expenses income or retained income as may be appropriate.

**NOTE C:** The cost of designing making plans and specifications and supervising the construction of equipment shall be included in the cost of the equipment.

taxes guarantees of indebtedness of others and agreements or obligations to repurchase securities or property. Where the outcome is reasonably foreseeable such as probable tax assessment which the carrier may not reasonably expect to contest successfully, such liabilities are to be reflected in the accounts and are not to be treated as contingent liabilities.

regarded as uncertain. Contingent liabilities include items which may under certain conditions become obligations of the company, but are neither direct nor assumed obligations on the date of the balance sheet. Examples of contingent liabilities are items which may become obligations as a result of pending or threatened litigation, assessments or possible assessments of additional

shall be included in the appropriate clearing accounts

## 9 Rails.

(a) This account shall include the cost of rails used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards etc.), and the cost of the excess in weight of heavier rails laid in replacement of lighter rails.

(b) The cost of handling rails in general supply and storage yards shall be included as store expenses apportioned to this account when the rails are used for construction purposes.

(c) To this account shall be credited the cost (estimated if actual is not known) of the excess weight of heavier rails replaced with lighter rails.

**NOTE A:** The cost of labor for unloading, distributing and placing the rails in tracks and of train service in connection with the distribution of the rails shall be charged to account 12, Track laying and surfacing.

**NOTE B:** The cost of rails used in the construction of car floats shall be included in the cost of such floating equipment and the cost of rails used in the construction of temporary tracks, such as gravel pit and quarry tracks shall be included in the appropriate clearing accounts.

## 10 Other Track Material

(a) This account shall include the cost of material used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards etc.) except ballast and material chargeable to foregoing accounts; also the excess cost of heavier or improved other track material used in repairs of tracks over the cost of replacing in kind such material removed.

(b) The cost of handling other track material in general supply and storage yards shall be included as store expenses apportioned to this account when such material is used in the construction of new tracks.

### ITEMS OF OTHER TRACK MATERIAL

Angle bars	Frogs
Anticreepers	Guard rail blocking
Bumping posts	Guard rail clamps
Compromise joints	Guard rail fasteners
Connecting rods	Guard rails switch
Crossings, including foundations or bases	and other
Derails	Main rods
Frog blocking	Nut locks
	Nuts
	Offset bars

**NOTE A:** When a part of the entire structure of a bridge or trestle is converted by filling into an earth embankment, the ledger value of the structure or of the portion thereof filled shall be credited to this account. In case the bridge or trestle is used in lieu of a temporary trestle for the purpose of filling the estimated cost of such temporary trestle shall be charged to account 3, Grading. The ledger value of the structure or portion thereof, filled less the value of the salvage and the estimated cost of trestle charged to account 3 shall be charged to account 735, Accrued depreciation—Road and equipment.

**NOTE B:** The cost of bridges to carry the carrier's tracks over underground crossings including the necessary piers and abutments to sustain them shall be included in this account.

## 7 Elevated Structures

This account shall include the cost of elevated structures and foundations of elevated railway systems. This account is applicable to structures other than earthwork which are for the purpose of elevating tracks above the grade of streets and which are not properly classifiable as bridges or trestles.

**NOTE:** The cost of stations and other structures built on elevated structures shall be accounted for according to the class of the structure thus superimposed and not in this account.

## 8 Ties

(a) This account shall include the cost of cross switch bridge and other track ties used in the construction of tracks for the movement or storage of locomotives and cars (including tracks in shops, fuel stations, supply yards etc.) and the cost of additional ties subsequently laid in such tracks; also the excess of cost of metal ties used in repairs of track over the cost to replace in kind wooden ties removed.

(b) The cost of handling ties in general supply and storage yards shall be included as store expenses apportioned to this account when the ties are used for construction purposes.

**NOTE A:** The cost of labor for unloading, distributing and placing the ties in tracks and the cost of train service in connection with the distribution of ties laid shall be charged to account 12, Track laying and surfacing.

**NOTE B:** The cost of ties used in the construction of car floats shall be included in the cost of such floating equipment and the cost of ties used in the construction of temporary tracks such as gravel pit and quarry tracks

Ditches (not required by right-of-way agreement)

Dressing slopes  
Excavation for conversion of tunnels into open cuts  
Filling bridges, trestles and culverts  
Grading outfits  
Grubbing land  
Material taken from borrow pits  
New channels for streams  
Operation of steam shovels  
Payments for privilege of wasting material on the property of others  
Payments for waste banks off the right of way  
Retaining walls  
Revetments  
Riprap  
Spoil banks  
Temporary trestling for fills  
Tools for grading  
Wing dams



## 5 Tunnels and Subways

This account shall include the cost of tunnels and subways for the passage of trains including apparatus for ventilating and lighting and safety devices therein other than signals.

**NOTE A:** The cost of tracks including guard rails in tunnels shall not be charged to this account.

**NOTE B:** Station subways not highway crossings are includible in account 16, Station and office buildings.

**NOTE C:** If a tunnel be converted into an open cut the accounting shall be in accordance with the instructions prescribed for converted property.

## 6 Bridges, Trestles, and Culverts

This account shall include the cost of the substructure and superstructure of bridges, trestles and culverts which carry the tracks of the carrier over water-courses, ravines, public and private highways and other railways.

### DETAILS OF BRIDGE STRUCTURES

Abutments	Ice breakers
Bridge signs	Painting (except re painting)
Conferdams	Pier protection
Concrete and masonry ends for culverts	Piers and foundations
Cribs	Pipe culverts
Decking including gravel for fire protection	Retaining walls
Dike protection	Riprap around abutments
Drainage systems	Riprap at culvert ends
Drawbridge engines and machinery	Supports
False work	Water channels
Guard timbers	Waterproofing
	Wing dams
	Wing walls

Taxes accrued and assumed at time of purchase

**NOTE:** The cost of land acquired in excess of that necessary for transportation operations shall be included in balance sheet account 737, Miscellaneous physical property. When the purchase of land acquired for transportation operations involves the purchase of land not used for such purposes the charges to this account shall be based upon the estimated cost of only that portion which is used for such purposes, and the cost of the remaining land shall be included in account 737, Miscellaneous physical property. Only the actual cost borne by the carrier for right-of-way and other lands acquired through vacation of streets and highways shall be included in this account. No donations should be considered as involved in the acquisition of such property.

## 2½ Other Right of way Expenditures

This account shall include the cost (in excess of cost of railway facilities installed if any) actually borne by the carrier of improvement projects (other than public improvement projects) such as the construction of canals, farm and other private passes, pipe lines, drains and other facilities across the carrier's right-of-way.

## 3 Grading

(a) This account shall include the cost of clearing and grading the roadway and of constructing protection for the roadway tracks embankments and cuts.

(b) When a part of a bridge or trestle or the entire structure is converted by filling into an earth embankment and the bridge is used in lieu of a temporary trestle for the purpose of filling the estimated cost of such temporary trestle shall be included in the cost of the filling and charged to this account. (See Note A under account 6, Bridges, trestles and culverts.)

(c) When a tunnel is converted into an open cut the cost of clearing, grubbing and excavating shall be included in this account.

### DETAILS OF ROADBED AND ITEMS OF EXPENSE

Advertising for contractors bids  
Berm ditches  
Blasting  
Breakwaters  
Bulkheading  
Clearing land  
Cribbing  
Dikes (including those of earthen construction which are intended to function indefinitely)

construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

**17 Roadway Buildings.** This account shall include the cost of roadway shops and other roadway buildings including drainage water gas, and sewer pipes and connections; and all machinery fixtures, and furniture to equip the building ready for use.

**LIST OF ROADWAY BUILDINGS**

- Blacksmith shops
- Breakwaters for protection of buildings
- Carpenter shops
- Fire-engine houses
- Frog shops for repair of track material
- Hand car houses
- Lighting plants
- Lumber sheds
- Planing mills
- Rail shops for repair of track material
- Repair shops
- Scrap bins
- Section dwelling houses
- Tool houses

**NOTE:** The cost of grading and preparing grounds both before and after the construction of roadway buildings and the cost of constructing sidewalks driveways and fences thereon shall be included in the cost of the buildings as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings, but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

**18 Water Stations**

This account shall include the cost of structures facilities and appliances necessary to equip for service stations for supplying water. The cost of analyses of water preliminary to the establishment of water stations shall be included in this account.

**WATER STATION STRUCTURES AND DETAILS**

- Boilers
- Breakwaters for protection of buildings
- Buildings on piers
- Cisterns and dams
- Fences
- Pump houses
- Purifying plants
- Reservoirs and wells
- Settling basins
- Stationary engines
- Steam pipes
- Tanks and foundations
- Water pipe lines
- Water-treating plants

**NOTE A:** The cost of water stations used solely for supplying water to shops power

counts appropriate for the cost of the structures

**NOTE B:** The cost of signs for identifying bridges signals, stations and other structures shall be included in the account appropriate for the cost of the structures

**NOTE C:** The cost of crossing signals, including crossing gates shall be included in account 27 "Signals and interlockers"

**NOTE D:** This account shall also include the cost of replacing units of such property or substantial parts of fences or snowsheds the original cost of which were charged to this account

**16 Station and Office Buildings**

This account shall include the cost of station and office structures their fixtures appurtenances and furniture necessary first to equip the buildings for use

**STATION AND OFFICE STRUCTURES AND DETAILS**

- Breakwaters for protection of buildings
- Buildings and rooms for trainmen
- Buildings on piers
- Coal transferring machinery (not on coal and ore wharves)
- Coal treaties (not at fuel stations)
- Drainage and sewerage systems
- Elevators and machinery
- Fences
- Freight cranes and derricks
- Freight handling machinery
- Gas supply systems
- General office buildings
- Grain elevators and warehouses
- Heating plants
- Holding engines for handling freight
- Lighting plants
- Ore transferring machinery
- Pavement within ground limits
- Platforms, passenger including planking between tracks
- Power distribution systems interior
- Sidewalks
- Station footbridges (not highway crossings)
- Station intertrack fences
- Telegraph offices
- Track scales
- Water supply systems
- Yard offices

**NOTE A:** Office buildings used exclusively in connection with maintenance of way shall be included in account 17 "Roadway buildings" Those used exclusively in connection with maintenance of equipment shall be included in account 20 "Shops and engine-houses"

**NOTE B:** The cost of grading and preparing grounds both before and after the construction of station and office buildings, and the cost of constructing sidewalks driveways and fences thereon, shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the

ted purposes shall be included in account

**NOTE D:** No charge shall be made to the accounts of this classification representing the value of cinders accumulated by the carrier

**12 Track Laying and Surfacing**

This account shall include the cost of distributing (including train service), laying, and adjusting ties, rails, and other track material used in the construction of tracks for the movement or storage of locomotives or cars including repair tracks but not tracks on car floats or temporary tracks the cost of which is chargeable to clearing accounts. It shall also include the cost of the labor expended in placing ballast in tracks not previously ballasted

**NOTE A:** The cost of distributing and adjusting ties rails ballast, and other track material for repairs shall be charged to operating expenses both when such materials are replaced in kind and when replaced with improved and heavier material

**NOTE B:** The cost of work train service in delivering ballast and of unloading such material is provided for in account 11 Ballast

**13 Fences, Snowsheds and Signs**

This account shall include:

(a) **Fences** The cost of right-of-way fences and snow and sand fences farm gates cattle guards wing fences aprons and hedges, on property not previously fenced excluding those around stock yards fuel stations station and shop grounds and building sites

(b) **Snowsheds** The cost of snowsheds including initial cost of planting trees for protecting tracks from snow

(c) **Signs** The initial cost of signs other than those for identification of bridges signals stations and other structures

**SIGN ITEMS**

- Boundary signs
- Bridge caution signs
- Crossing signs
- Curve and elevation markers
- Division limit signs
- Millposts
- Monuments
- Safety first signs at crossings
- Section limit signs
- Slow or stop signs
- Tunnel—caution signs
- Water station signs
- Water-trough signs
- Whistle signs
- Yard limit signs

**NOTE A:** The cost of fences (other than right of way boundary fences) around stock yards, fuel and water stations, and other building sites shall be charged to the ac

Switch locks and keys

Switch points

Switch stands

Switch targets

Switches

Tie plates

Tie plugs

Tie rods

Track bolts

Track insulators

Track spikes

**NOTE A:** The cost of labor and train service for distributing unloading, and applying other track material shall be charged to account 12 "Track laying and surfacing"

**NOTE B:** No entry is required in this account with respect to improved "other track material" unless installed under a definite plan of changing standards such as increasing the weight of rail

**NOTE C:** The cost of other track material used in the construction of car floats shall be included in the cost of such floating equipment and the cost of such track material used in the construction of temporary tracks such as gravel pit and quarry tracks shall be included in the appropriate clearing accounts

**11 Ballast**

(a) This account shall include the cost of gravel stone slag cinders, sand and like material used in ballasting tracks (including tracks in shops fuel stations supply yards, etc.) not previously ballasted including cost of work-train service and of unloading; cost of ballast applied in excess of ballast required to restore to its maximum height and width the ballast previously put on the roadbed; and the excess cost of improved ballast used in renewals over the cost to replace in kind to the original height and width the ballast removed. Charges to this account shall not exceed the cost of ballast applied to a depth of 24 inches beneath the tie unless otherwise authorized by the Commission

(b) The instructions prescribed for gravel and sand pits and quarries applies to the accounting for pits from which ballast material is obtained either for construction work or for maintenance, or for both

**NOTE A:** The cost of ballast used in the construction of temporary tracks such as gravel pit and quarry tracks shall be included in the appropriate clearing accounts

**NOTE B:** Earth placed to form a crown in the middle of the track is not to be considered as ballast

**NOTE C:** The cost of ballast material placed on the decking of bridges solely for fire pro

Plants stations hotels tenement houses or section houses shall be charged to the appropriate accounts relating to the property so supplied

**NOTE B:** The cost of a temporary water station established only for use during the construction period shall be included in the primary accounts to which is charged the cost of the work in connection with which the water station is used

**NOTE C:** The cost of grading and preparing grounds both before and after the construction of water station buildings and the cost of constructing sidewalks driveways and fences thereon shall be included in the cost of the buildings as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts The cost of permanent water rights shall also be included in the cost of the buildings

## 19 Fuel Stations

This account shall include the cost of structures facilities other than tracks and appliances necessary to equip for service stations for supplying fuel to locomotives and floating equipment

### FUEL STATION STRUCTURES AND DETAILS

Breakwaters for piers Fences  
Buildings on piers Fuel houses or stations  
Coal buckets and Fuel oil plants  
hoists pumps and tanks  
Coal pockets and Fuel platforms and wharves  
chutes Stationary engines  
Dumping machinery Tiptoe cars  
Elevating machinery Weighing apparatus

**NOTE A:** The cost of fuel stations coal houses etc used solely for supplying fuel to shops power plants, stations hotels tenement houses or section houses shall be charged to the appropriate accounts relating to the property so supplied

**NOTE B:** The cost of a temporary fuel station established only for use during the construction period shall be included in the primary accounts to which is charged the cost of the work in connection with which the fuel station is used

**NOTE C:** The cost of grading and preparing grounds both before and after the construction of fuel station buildings and the cost of constructing sidewalks driveways and fences thereon shall be included in the cost of the buildings as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts The cost of permanent water rights shall also be included in the cost of the buildings

## 20 Shops and Enginehouses

This account shall include the cost of buildings to be used as shops enginehouses and storehouses for material maintenance of equipment; foundations except those special to particular machines and other apparatus; furniture and fixtures other than equipment chargeable to account 44 Shop machinery; drainage sewerage and water supply systems; and plants for heat and light

### SHOP AND ENGINEHOUSE STRUCTURE AND DETAILS

Air compressor Lumber sheds  
Bins for material Material and supply  
Blacksmith shops Motor crane tracks  
Breakwaters for Offices shop  
protection of Paint shops  
buildings Pipe lines air and  
Buildings on piers heat  
Car sheds and shops Pipe lines gas  
Carpenter shops interior  
Cinder pits and Planing mills and  
pockets repair shops  
Electric power Platforms shop and  
distribution yard  
systems within Scale houses and  
buildings scales  
Enginehouses Scrap bins  
Fire engine houses Sidewalks  
Footbridges (not Steam distribution  
public highways) systems interior  
Foundries and Storehouses  
machine shops Tanks gas and oil  
Gas compressor Test rooms  
houses Turntables  
Heating and lighting Upholstering shops  
plants Warehouses  
Laboratories

**NOTE A:** The cost of distinct power plant buildings for shop purposes shall be included in account 29 Power plants The cost of distribution systems leading from such power plants to shops and enginehouses shall be included in account 31 Power transmission systems

**NOTE B:** The cost of grading and preparing grounds both before and after the construction of shop and enginehouse buildings, and the cost of constructing sidewalks driveways, and fences thereon shall be included in the cost of the buildings as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts The cost of permanent water rights shall also be included in the cost of the buildings

**NOTE C:** The cost of shop buildings devoted solely to the maintenance of way and

structures shall be included in account 17 Roadway buildings

## 21 Grain Elevators

This account shall include the cost of structures, including the cost of conveyors machinery and the fixtures which the railway companies operate for the transfer treatment and storage of grain The buildings referred to in this account are not small storage elevators at stations where grain is received for shipment etc but large elevators in which grain is stored for various owners

**NOTE A:** Small storage elevators at way stations are classed as station buildings

**NOTE B:** The cost of grading and preparing grounds both before and after the construction of grain elevator buildings and the cost of constructing sidewalks driveways and fences thereon shall be included in the cost of the buildings as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts The cost of permanent water rights shall also be included in the cost of the buildings

**NOTE C:** The cost of grain elevators leased to noncarriers shall be included in account 737 Miscellaneous physical property

## 22 Storage Warehouses

This account shall include the cost of storage warehouses including machinery and fixtures therein The buildings herein referred to are not the ordinary freight warehouses or stations where freight is received for shipment etc but warehouses in which merchandise is stored and which the railway companies operate as storage warehouses

**NOTE A:** The cost of grading and preparing grounds both before and after the construction of storage warehouse buildings and the cost of constructing sidewalks, driveways and fences thereon shall be included in the cost of the buildings as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts The cost of permanent water rights shall also be included in the cost of the buildings

**NOTE B:** The cost of warehouses leased to noncarriers shall be charged to account 737 Miscellaneous physical property

## 23 Wharves and Docks

This account shall include the cost of wharves docks dry docks slips float

bridges and other landings for vessels including the cost of necessary dredging and the cost of float-bridge machinery; also the cost of piling pile protection cribs coffer-dams walls and other necessary devices and apparatus for the operation or protection of wharves and docks

### DETAILS OF WHARVES AND DOCKS

Bridge pontoons Ferry bridges  
Bulkheads Ferry slips  
Caissons and crib Jetties and inclines  
work Transfer bridge  
Dry docks machinery  
Ferry bridge machinery  
Transfer bridges

**NOTE A:** The cost of coal and ore wharves and docks shall be included in account 24 Coal and ore wharves

**NOTE B:** The cost of the land on which wharves are built and cost of riparian or water rights for wharves and docks shall be charged to account 2 Land for transportation purposes

**NOTE C:** The cost of buildings located on wharves shall be included in the accounts appropriate for the class of buildings

**NOTE D:** The cost of grading and preparing grounds both before and after the construction of wharves (other than coal and ore wharves) and the cost of constructing sidewalks driveways, and fences thereon shall be included in the cost of the wharves but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts The cost of permanent water rights shall also be included in the cost of the wharves

## 24 Coal and Ore Wharves

This account shall include the cost of wharves and docks for the transfer, treatment blending or storage of coal or ore including the cost of necessary dredging and of conveyors machinery, and fixtures

**NOTE A:** The structures referred to in the account do not include small transfer or storage trestles or wharves at stations where coal is stored or delivered such trestles being classed as station buildings

**NOTE B:** The cost of grading and preparing grounds both before and after the construction of coal and ore wharves and the cost of constructing sidewalks driveways and fences thereon shall be included in the cost of the wharves as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the wharves but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts The cost of permanent water rights shall also be included in the cost of the wharves

Water sewer gas Wells (but not  
and drainage pipes pumps)  
and connections

#### DAM CANAL AND FIVE LINE ITEMS

Aqueducts Reservoirs  
Bridges Roadways  
Fences (other than Sluices  
right - of - way Valves  
boundary fences) Water rights  
Footbridges

**NOTE A:** The cost of power plant machinery including stacks resting on boilers, and special foundations for machines shall be included in account 45 Power plant machinery.

**NOTE B:** The cost of the buildings and of the power machinery and other apparatus of plants used primarily for operating signals and interlockers shall be included in account 27 Signals and interlockers.

**NOTE C:** Investment in buildings and machinery of detached plants for furnishing power both for operating purposes and for sale shall be included in this account and in account 45. Power plant machinery and equipment used primarily for generating power for sale to other than common carriers the investment shall be included in account 757 Miscellaneous physical property.

#### 31 Power transmission Systems

This account shall include the cost of systems for conveying electricity steam, and compressed air from producing plants to place or building where used; also the cost of conduits and of poles, cross arms insulator pins brackets, and other pole fixtures and of other structures for power-transmission and distribution systems including those for electric railway operation and lighting systems for general lighting purposes.

##### POWER TRANSMISSION SYSTEM ITEMS

Air pipe lines in car yards  
Compressed air pipe lines  
Compressed air storage tanks (not at power houses or shops)  
Cut outs (not at power houses and substations)  
Overhead trolley wires  
Rail insulating devices  
Steam heating pipe-lines in car yards  
Switchboards (not at power houses and substations)  
Third rail insulation and protection  
Transformers (not at power houses and substations)  
Underground power tubes  
POLE LINE AND CONDUIT ITEMS  
Braces and other supports for holding poles in position

The entire cost of the building shall be included in account 16 Station and office buildings

**NOTE B:** The cost of track material, such as switches special rail braces special rods special track fastenings split rails derails derail stands, and frogs used in connection with interlockers shall be included in account 10. Other track material

**NOTE C:** When derails are arranged so as to be thrown from switch stands the cost of labor expended in the installation of the connections between the switch stand and derail and the devices for throwing the derail shall be included in account 12 Track laying and surfacing. The cost of the material shall be included in account 10. Other track material

**NOTE D:** The cost of grading and preparing grounds both before and after the construction of signal and interlocker buildings and the cost of constructing sidewalks driveways and fences thereon shall be included in the cost of the buildings, as shall also the fees and expenses of architects specially employed for designing or supervising the construction of the buildings but the cost of restoring the grounds after addition and betterment work shall be included in the appropriate operating expense accounts. The cost of permanent water rights shall also be included in the cost of the buildings.

#### 29 Power Plants

This account shall include the cost of power-plant and substation buildings (housing machinery provided for in account 45 Power-plant machinery); all foundations other than those special to particular machines and apparatus; and also dams canals, pipe lines and accessories devoted to the utilization of water for power. Gas and sewer pipes and their connections fixtures (including wiring) for lighting and heating and furniture and miscellaneous fixtures shall be considered as a part of the power-plant buildings.

##### POWER PLANT STRUCTURE ITEMS

Buildings.  
Coal bunkers  
Fences (other than right - of - way boundary fences)  
Fixtures for lighting (including wiring) and heating  
Power-plant buildings  
Foundations (except special foundations for machines and other apparatus)  
Fuel oil tanks  
Furniture  
Hose and appliances for protecting buildings against fire  
Pavement within ground limits  
Permanent rights in water supply  
Platforms  
Smoke stacks and chimneys and their foundations when distinct from and not resting on boilers

**NOTE B:** Communication systems of limited extent, not connected with other systems used for special purposes and usually installed within a single building, group of buildings or within the limits of a station or shop layout or yard, shall be included in the same account as the building in which located or in the account appropriate for the service with which associated.

##### ITEMS

Buzzers bells dictaphones or other inter-office communication systems in an office or group of buildings  
Loud speakers bells or whistles in shop and other yards  
Loud speakers public address devices press button control lights telegraph or other systems in stations or on platforms  
Whistles klaxons or horns operated from signal towers

**NOTE C:** Test sets shall be classified as tools and included in the account appropriate for their use.

#### 27 Signals and Interlockers

This account shall include the cost of interlocking and other signal apparatus for governing the movements of locomotives cars and trains and for the protection of traffic at crossings including towers and other buildings furniture fixtures, and machinery in connection therewith; roadway installations for train control and remote control including the cost of the initial tests of such installation; also the cost of buildings and machinery of power plants used primarily for the production of power for the operation of signals and interlockers.

##### ITEMS

Automatic-train control devices other than on equipment  
Call bell systems along track to call in flag men  
Call boxes, electric  
Car retarder systems  
Centralized traffic control  
Crossing flasher light signals  
Crossing gates, highway and railway  
Crossing signal bells  
Crossing warning signals.  
Interlocker buildings and machinery  
Power apparatus primarily for the operation of signals and interlockers  
Power distribution lines primarily for the operation of signals and interlockers  
Signal buildings  
Signal machinery, poles and foundations  
Train order signals

**NOTE A:** When signal or interlocking apparatus is located in a station building only the cost of the signal or interlocking apparatus shall be charged to this account.

ment water rights shall also be included in the cost of the wharves

#### 26 Communication Systems

This account shall include the cost of telegraph, telephone radio radar inductive train communication, and other communication systems including terminal equipment

##### DETAILS OF TELEGRAPH AND TELEPHONE TERMINAL EQUIPMENT

Batteries  
Cables and wires  
Interior  
Carrier terminating equipment  
Conduits interior  
Connecting wires  
Current controlling  
Instruments  
Electric generators and motors  
Electric meters  
Engines stationary

##### DETAILS OF TELEGRAPH AND TELEPHONE OUTSIDE PLANT

Aerial attachments  
Braces  
Brackets  
Cable boxes and appurtenances  
Cables and wires  
Cables and connections  
Conduits and appurtenances  
Cross arms  
Gas and associated facilities for cables

##### DETAILS OF RADIO RADAR AND INDUCTIVE TRAIN COMMUNICATION EQUIPMENT

Aerials or antenna and attachments  
Buildings or towers used exclusively for wireless  
Control units  
Power generating converting or supply equipment  
Radar console and associated equipment  
Roadside or office equipment for all wireless systems operated on special channels between train and train train and tower or office, or between ship and shore  
Specialized testing and repair equipment  
Transmitters and receivers including mobile units

**NOTE A:** Radio radar or trainphone equipment (except portable apparatus) which is permanently attached to locomotives cars work equipment or other rolling stock or floating equipment shall be included in the same accounts as the equipment on which installed. Wireless sets for instruction advertising or entertainment shall be included in the same accounts as the building in which located.

of operating such trains cannot properly be charged to any specific account. To this account shall be credited amounts collected for rents of buildings and other properties and for the transportation of commercial freight or of passengers on construction trains; also the net profits from boarding and commissarial outfits and other sources of operating revenue. Carriers which wish to subdivide this account shall use appropriate subaccounts corresponding to accounts prescribed for operating revenue operating expense or income accounts.

#### 42 Reconstruction of Road Property Acquired

When road property acquired is in such physical condition that it is necessary to substantially rebuild the road in order to bring it up to the standard required by the carrier the accounting for such reconstruction including retirements in connection therewith shall be presented to the Commission for approval before being entered in the accounts.

**NOTE:** A comprehensive statement of the estimated amount necessary to reconstruct a road in accordance with the above provision shall be made to the Commission as soon as the estimate is made.

#### 43 Other Expenditures; Road

This account shall include items which can not properly be included in any of the foregoing accounts as a part of the cost of any specific work amounts paid for rent and repairs of equipment and for injuries to persons incident to and in connection with original road road extensions or additions and betterments; and analogous items. When assessable such expenditures shall be included in the cost of the property in connection with which the expenditure occurs.

**NOTE:** Rents paid for and repairs made to equipment used in commercial operations during the period before the regular operation of revenue trains shall be charged to account 40. Revenue and operating expenses during construction.

#### 44 Shop Machinery

This account shall include the cost of machinery and other apparatus in shops and engine houses including the cost of special foundations and installation and cost of small hand tools necessary first to equip a shop.

Damage to property of others when incidental to highway construction. Drainage systems. Engineering—When such costs apply to items chargeable to this account. Flood protection. Grading streets and highways. Gutting streets and highways. Irrigation systems. Levees. Overhead highway bridges including approaches. Paying streets and highways including such pavings at crossings. Planking highway crossings. Sewer systems. Sidewalks. Street lighting systems. Water works.

**NOTE A:** The cost of railway facilities installed in connection with joint public improvement projects if not in excess of total costs borne by the carrier shall be included in accounts other than account 39. Public improvements—Construction appropriate for the class of property installed. Any costs borne by the carrier in excess of the cost of railway facilities shall be charged to this account.

**NOTE B:** The cost to the carrier of main taining public improvements shall be included in Operating Expenses.

**NOTE C:** Any portion of the cost of public improvements which is included in the general tax levy for a regular taxing district shall be included in the account appropriate for taxes.

**NOTE D:** The amount of the deferred payments of assessments for public improvements if payments are to be made within one year shall be included in account 763. Other current liabilities. If the payments are spread over a longer period they shall be credited to account 762. Other liabilities. The interest paid on such assessments shall be included in account 547. Interest on unfunded debt.

**NOTE E:** Interest and penalties imposed on basis of monthly or annual percentage rates, for failure to pay assessments within the allotted time shall be charged to account 547. Interest on unfunded debt.

**NOTE F:** Assessments on noncarrier property for the cost of constructing public improvements shall be charged to account 757. Miscellaneous physical property.

**40 Revenues and Operating Expenses During Construction**

This account shall include the cost of operating a piece of road during the period before the regular operation of revenue trains including rent and repairs of equipment used in commercial service during such period. It includes the cost of running construction trains over such section of road when the cost

of the appraised value of the machines retained after the completion of the special work for which they were purchased shall be credited to the accounts charged with the cost thereof. The appraised value of such machines retained shall be debited to this account and thereafter considered as the cost of such property.

**NOTE B:** The cost of machines for the equipment of roadway shops shall be included in account 17. Roadway buildings as provided for therein.

**NOTE C:** The cost of roadway machines such as pile drivers log loaders hoist engines and concrete mixers when permanently mounted for movement on the carrier's tracks shall be included in account 57. Work equipment shall be included in account 57.

**38 Roadway Small Tools**

This account shall include the cost of the initial outfit of roadway and track small tools provided for the maintenance of way and structures at the time the road is opened for commercial traffic; also the initial outfit of such tools provided for the maintenance of extensions of such road.

**NOTE:** The cost of roadway and track small tools of which no specific record is kept shall be charged when acquired to an appropriate materials and supplies account, from which they shall be charged as issued to the appropriate road and equipment, operating expense or other accounts. When such tools are used both for construction and maintenance work the cost shall be equitably apportioned among the accounts provided for the two classes of work.

**39 Public Improvements; Construction**

This account shall include amounts assessed on carrier property by governmental authority (by mutual agreement or otherwise) to cover the cost of constructing public improvements when such assessments are made against property within defined areas of taxing districts. The account also shall include carrier's portion of the cost of public improvements constructed under governmental requirements. See Instruction 16. The entire amount of each assessment and other liabilities for public improvements shall be included in this account as soon as the amounts are determined.

**ITEMS**

Cost of land outside carrier's right of way to provide for the relocation of streets or highways or providing slopes therefor. Cost of removal and relocation of buildings and other structures in connection with the construction of streets and highways. Curbing streets and highways.

Brackets cross arms and other pole fixtures. Conduits for wires and cables. Cutting and trimming trees. Guy stubs and wires. Manholes. Poles and towers. Sewer traps. Stenciling or painting letters or numbers on poles.

**NOTE A:** The cost of wire and pipe distribution systems located within shop buildings and in stations and office buildings shall be included in the cost of the buildings except that lateral service lines to equipment shop machines shall be included in account 44. Shop machinery. The cost of distribution systems used primarily for operating signals and interlockers shall be included in account 27. Signals and interlockers.

**NOTE B:** The cost of conduits and of poles and fixtures for telegraph and telephone or signal lines shall be included in account 26. Communication systems or account 27. Signals and interlockers, as appropriate. The cost of poles and conduits used for telegraph and telephone or signal lines and for power distribution lines shall be included in the account appropriate according to their predominant use.

#### 35 Miscellaneous Structures

This account shall include the cost of all permanent structures not provided for elsewhere including all fixtures and furniture to equip them for use.

#### 37 Roadway Machines

This account shall include the cost of the initial outfit of roadway machines provided for the maintenance of roadway and structures at the time the road is opened for commercial traffic and the cost of additional roadway machines acquired subsequently.

##### LIST OF ROADWAY MACHINES

Boilers portable. Engines portable. Cars hand. Grading outfits. Cars lever. Hydraulic outfits. Cars motor inspection. Jacks hydraulic. Cars push. Log loaders. Cars (small) crane. Pile drivers. Plows unloading. for supply yards. Rail unloaders. Rock crushers. and general use. Concrete mixers. Steam rollers. Ditching machines. Timber trucks. Dredging machines. Velocipedes.

**NOTE A:** When an important addition and betterment project or the construction of a new line necessitates the purchase of roadway machines to be used exclusively thereon the cost shall be included in the accounts to which the cost of the work is charged. The amount realized from any subsequent sale

Logging  
Oil tank  
Ore  
Platform  
Poultry  
Produce  
Rack  
Refrigerator  
Stock  
Tank and water  
(when used as commercial cars)

Charcoal  
Coal  
Coke  
Dump (commercial)  
Flat  
Fruit  
Furniture  
Gondola  
Gondola (hopper)  
Gondola (long)  
Gun truck  
Hay  
Lime

Sewer connections  
Special foundations  
for machines  
Steam - distribution  
systems within the  
plant  
Switchboards  
Tanks

Air compressors  
Ash conveyors  
Belting  
Blowers  
Boilers for furnishing power  
Boring machines  
Cars motor  
Cars push  
Cranes  
Drilling machines  
Drop tables  
Forges  
Framing machines  
Furnaces  
Grinding and polishing machines  
Hoists  
Hydraulic jacks  
Lathes  
Lifting magnets

Tractors, trailers and trucks permanently assigned to power plants  
Transformers  
Turbines  
Water meters  
Well pumps

NOTE A: The cost of power machinery and other apparatus installed in a shop as part of the shop equipment shall be included in account 44. Shop machinery  
NOTE B: The cost of power machinery and other apparatus installed in station and office buildings shall be included in account 16. Station and office buildings  
NOTE C: The cost of the buildings and the power machinery and other apparatus of plants used primarily for operating signals and interlockers shall be included in account 27. Signals and interlockers  
NOTE D: The cost of foundations other than those special to particular machines and other apparatus shall be included in the cost of the building and not in this account

NOTE E: The cost of machinery and buildings of detached plants for producing power both for operating purposes and for sale shall be included in this account and in account 29. Power plants respectively. When plants are intended and used primarily for generating power for sale to non-carriers the investment shall be included in account 737. Miscellaneous physical property

NOTE A: The cost of powerplant machinery and other apparatus for shop purposes when located in distinct buildings shall be included in account 45. Power plant machinery  
NOTE B: The cost of foundations other than those special to particular machines and other apparatus shall be included in the cost of the building and not in this account

#### 45 Power plant Machinery

This account shall include the cost of machinery and other apparatus in power plants and substations for generating and transforming power used for the operation of trains and cars or to furnish power heat and light for stations shops and general purposes and also the cost of foundations special to particular machines or other apparatus including the cost of installation

#### ITEMS

Air compressors  
Ash conveying machinery  
Battery charging apparatus  
Boiler room appliances and tools  
Boilers and fittings  
Circuit breakers  
Coal conveying machinery  
Condensers  
Cranes  
Draft machinery  
Dynamometers  
Engine room appliances and tools  
Feed water heaters  
Furnaces  
Ice manufacturing machinery and apparatus  
Lubricating devices  
Mechanical stokers  
Metal stacks on boilers  
Refrigerating machinery and apparatus  
Rotary converters

## Equipment

### 50 Equipment

The several primary accounts included in this general account are designed to show the cost of the several classes of equipment owned by the carrier or held under equipment trust agreements or other contractual obligations for purchase of the property

#### 51 Steam Locomotives

This account shall include the cost of steam locomotives and tenders purchased or built by the carrier and of appurtenances furniture, and fixtures necessary to equip them for service including the cost of inspection, setting up, and trying out after receipt from builders and transportation charges to the carrier's line

#### LIST OF APPURTENANCES TO LOCOMOTIVES

Air brake equipment  
Arm rests  
Awnings  
Brake fixtures  
Cab cushions  
Cab lamps  
Clocks  
Coal boards  
Fire-extinguishing apparatus  
Gongs  
Head lamps

### 52 Other Locomotives

This account shall include the cost of locomotives other than steam purchased or built by the carrier and of appurtenances furniture and fixtures necessary to equip them for service including inspection setting up and trying out after receipt from builders and transportation charges to the carrier's line

NOTE: Cars with motor equipment are not to be classed as locomotives

#### 53 Freight train Cars

This account shall include the cost of freight-train cars of all classes including motor-driven cars purchased or built by the carrier including all appurtenances furniture and fixtures necessary to equip them for service and the cost of inspection and transportation charges to the carrier's line

#### LIST OF FREIGHT TRAIN CARS

Ballast (commercial)  
Beer  
Box  
Cabin  
Caboose

### 54 Passenger train Cars

This account shall include the cost of passenger-train cars of all classes including motor-driven cars, purchased or built by the carrier including all appurtenances furniture and fixtures necessary to equip them for service and cost of inspection and transportation charges to the carrier's line

#### LIST OF PASSENGER TRAIN CARS

Baggage express  
Baggage mail  
Baggage-mail-express  
Buffet  
Café chair and club  
Dining  
Express  
Library  
Mail  
Milk  
Observation  
Parlor  
Parlor-baggage  
Passenger  
Passenger-baggage-mail  
Postal  
Refrigerator express  
Sleeping  
Smoking  
Tourist

#### LIST OF APPURTENANCES TO PASSENGER TRAIN CARS

Air brake equipment  
Including hose  
Bedding  
Chairs  
Coat hooks  
Curtains and fixtures  
Cushions  
Electric bells  
Floor coverings  
Heating equipment  
Ice boxes  
Ice tanks  
Kitchen equipment and utensils  
Lighting equipment  
Mail catchers  
Parcel racks  
Ranges and boilers  
Seats  
Speed recorders  
Steam heat hose  
Table china  
Table glassware  
Table linen  
Table silver  
Toilet equipment  
Train signal  
Train signal equipment  
Including hose  
Water tanks

**56 Floating Equipment**

This account shall include the cost of marine or floating equipment of all kinds except work equipment purchased or built by the carrier including all appurtenances furniture and fixtures necessary to equip it for service and cost of inspection and transportation charges to the carrier's line

**LIST OF FLOATING EQUIPMENT**

Barges  
Canal boats  
Car and other floats  
Ferryboats  
Lighters  
Power launches

Power lighters  
Scaws  
Steamboats  
Steamships  
Transfer boats  
Tugboats

**LIST OF APPURTENANCES TO FLOATING EQUIPMENT**

Anchors  
Barometers  
Beds and bedding  
Binnacle lamps  
Blocks and tackle  
Boilers and foundations  
Cables  
Captain bars  
Charts  
China crockery and glassware  
Chronometers  
Compasses  
Decks and furniture  
Engines and foundations  
Fire buckets and extinguishers  
Floor coverings  
Gangplanks  
Heating equipment  
Hoisting equipment  
Kitchen equipment  
Life preservers  
Lighting equipment

**LIST OF RAIL WORK EQUIPMENT**

Air brake instruction cars  
Ballast cars  
Ballast unloader cars

Boarding cars  
Bridge cars  
Business cars  
Camp cars  
Cinder cars  
Concrete mixers  
(mounted)  
Derrick cars  
Dirt spreaders  
(mounted)  
Ditching cars  
Dump cars  
Dynamometer cars  
Gas tank cars  
Grading cars  
Gravel cars  
Indicator cars  
Locomotive tanks  
used permanently  
as water cars  
Locomotives.  
Officers cars  
Outfit cars

Painters cars  
Pay cars  
Pile drivers  
(mounted)  
Rail saws  
(mounted)  
Salt cars  
Sanding cars  
Scale test cars  
Scrapper cars  
Snow dozers  
Snow drags  
Snow plows (moved  
by but not at  
tached to locomotive  
tives)  
Sprinkling cars  
Steam shovels  
Steam wrecking derricks  
Supply cars  
Sweeper cars  
Tool cars.  
Tool and block cars  
Water cars  
Weed burners  
(mounted)  
Wrecking cars

**LIST OF FLOATING WORK EQUIPMENT**

Dredges

Pile drivers

Dredges

Dredges

Dredges

Dredges

Dredges

Dredges

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NOTE: Court costs and special counsel fees in connection with the acquisition of land for transportation operations shall be included in account 2 Land for transportation purposes

**74 Stationery and Printing**

This account shall include the cost of stationery stationery supplies postage, office devices and printed matter used by any class of employees in connection with construction and not provided for elsewhere

NOTE A: The cost of printing bonds etc., in connection with the carrier's funded debt shall be included in balance sheet account 742 Unamortized discount on long term debt

NOTE B: The cost of stationery and printing when assignable shall be included in the cost of the property in connection with the acquisition or construction of which the expenditure occurs

**75 Taxes**

This account shall include State county township city, school road annual franchise and all other taxes and assessments levied and paid on property belonging to the carrier during construction and before the facilities are used for commercial operations except special assessments for street and other improvements chargeable to account 39 Public Improvements—Construction

NOTE: Taxes during construction when assignable shall be included in the cost of the property acquired or constructed

**76 Interest During Construction**

(a) When any bonds notes or other evidences of indebtedness are sold, or any interest-bearing debt is incurred for acquisition and construction of original road and equipment, extensions, additions and betterments the interest accruing on the part of the debt representing the cost of property chargeable to road and equipment accounts (less interest if any allowed by depositaries on unexpended balances) after such funds become available for use and before the receipt or the completion or coming into service of the property so acquired shall be charged to this account

(b) When such securities are sold, at a premium the proportion of such premium assignable to the time between the date of the actual issuance of the securities and the time when the property acquired or the improvement made becomes

**General Expenditures****70 General Expenditures**

The primary accounts of this general account are designed to include expenditures made in connection with the acquisition and construction of original road and equipment and with extension additions and betterments to road and equipment property when such expenditures cannot properly be included in any of the foregoing accounts as a part of the cost of any specific work. When assignable, such expenditures shall be included in the cost of the property in connection with which the expenditures occur

**71 Organization Expenses**

This account shall include all fees paid to governments for the privilege of incorporation, and office and other expenditures incident to organizing the corporation and putting it in readiness to do business; cost of preparing and distributing prospectuses; special counsel fees; cost of preparing and issuing certificates of stock; cost of procuring the necessary certificates from State authorities; and other like costs necessary and proper in organizing the enterprise

NOTE: Cost of soliciting for loans or for the sale of bonds or other evidences of indebtedness shall be charged to balance sheet account 742 Unamortized discount on long term debt

**72 General Officers and Clerks**

This account shall include the pay and expenses of executive and general officers and of general office clerks engaged exclusively in connection with the construction of new road and extensions

NOTE: The salaries and expenses of executive and general officers and of general office clerks engaged in connection with the conduct of commercial operations during the period before the regular operation of revenue trains shall be included in account 40 Revenues and operating expenses during construction

**73 Law**

This account shall include specific and distinct expenditures not provided for elsewhere for law service in connection with the acquisition of new road road extensions additions and betterments such as pay and expenses of counsel, solicitors, and attorneys their clerks and attendants and expenses of their offices

ment road extensions additions and betterments which cannot properly be included in any other account in this classification

(c) This account shall also include such proportion of the discount and expense on funded debt issued for the acquisition of original road original equipment road extensions additions and betterments as is equitably assignable to the period between the date of the actual issuance of securities and the time when the property acquired or the improvement made becomes available for the service for which it is intended. The proportion of discount and expense thus chargeable shall be determined by the ratio between the period prior to the completion or coming into service of the facilities or improvements acquired and the period of the entire life of the securities issued

NOTE A: Interest on bonds notes or other evidences of indebtedness accruing before the proceeds from the sale of the securities become available for use shall not be included in this account nor shall there be included any interest accruing after the property with respect to which the proceeds are expended is received or becomes available for use in connection with commercial service

NOTE B: If any securities which have been issued or assumed by the carrier are sold or exchanged by or for the carrier for a consideration the actual money value of which at the time of such sale or exchange is less than the value of the securities at par and the accrued interest thereon if any the difference between the money value of the consideration received and the par value of the securities plus the accrued interest shall be deemed a discount. In no case (except as provided in the third paragraph of this account) shall discounts be included as part of the cost of anything charged to any account prescribed in this classification

NOTE C: Whenever interest premium or discount assignable to the construction period is incurred in connection with an expenditure covered by some specific roads and equipment account or accounts such interest premium or discount shall be charged directly to the specific accounts to which it is related

NOTE D: This account shall not include interest during the construction period on the carrier's own funds expended in connection with the acquisition or construction of original road and equipment extensions additions and betterments

77 Other Expenditures; General

This account shall include all expenditures of a special and incidental nature in connection with the acquisition and construction of original road and equip-

ment road extensions additions and betterments which cannot properly be included in any other account in this classification

80 Other Elements of Investment

(a) This account shall include elements of investment in property not includible in other primary property accounts. When property is retired from service a fair portion of the amount in this account assignable to such property shall be cleared on a consistent basis. The amount of charges so cleared shall be included in the operating expense account prescribed for loss from property retired unless a reserve previously has been provided against which the amount is now chargeable

(b) The amount cleared for property retired shall include a fair portion of any of the remaining credit balance recorded in this account as of the time of a merger purchase or reorganization pursuant to instruction 2-14 Merger, consolidation, and purchase, and 2-15 Reorganization of railway. The amount of credits so cleared assignable to retirements of property classified as nondepreciable (for which a reserve for loss from retirements has not been provided) shall be applied to reduce the loss otherwise chargeable to operating expenses or to retained income when use of the retained income account for the loss has been authorized by the Commission. Any material amount of credit in this account 80 Other elements of investment, equitably assignable to nondepreciable property previously retired and charged off to operating expenses or retained income shall be cleared and credited to account 606 Other credits to retained income; any material amount of debit in account 80 Other elements of investment, equitably assignable to property previously retired shall be cleared and charged to account 616 Other debits to retained income

(c) Any portion of a credit balance in this account 80 Other elements of investment arising from a merger, purchase or reorganization that is equitably assignable to property for which a depreciation or other reserve has been provided and which reserve is now adequate to take care of losses from retirements shall be disposed of as soon as practicable consistent with the procedure indicated in paragraph (d) hereunder for

disposition of the amount in account 80 Other elements of investment

(d) In addition to the items hereinbefore described directly assignable to property retired other amounts are when authorized or directed by the Commission, to be cleared and written off gradually within a reasonable period of time or disposed of immediately in conformity with sound accounting principles. Statement of accounting cover-

**RAILWAY OPERATING REVENUE ACCOUNTS**

**100 Transportation; Rail Line**

The primary accounts included in this general account are designed to show amounts of money which the carrier becomes entitled to receive or which accrue to its benefit from service rendered in transporting property or persons by rail line

**101 Freight**

- (a) This account shall include revenue from the transportation of freight and from transit stop and reconsigning privileges upon the basis of lawful tariff rates
- (b) This account shall include collections in excess of tariff charges except where such amounts are segregated and held subject to refund. Charges found to be uncollectible on shipments for which service has been rendered shall be charged to this account
- (c) Proceeds derived from the sale of unclaimed and refused freight which has been transported in accordance with the contract of shipment shall be credited to this account in cases where such items can be readily identified. Uncollected tariff charges on such shipments shall be charged to this account

**ITEMS TO BE CREDITED**

- (a) Revenue upon the basis of local freight tariff rates, regardless of class of train in which the freight is transported
- (b) The carrier's proportion of revenue upon the basis of through freight tariff rates, regardless of class of train on which the freight is transported
- (c) Revenue from transportation of mail matter and empty mail pouches at freight tariff rates
- (d) Revenue from transportation of freight on special trains at rates based on weights of shipments
- (e) Revenue on basis of classifications and freight tariffs from transportation of caretakers of freight shipments
- (f) Revenue from reconsigning privileges
- (g) Revenue from stop privileges
- (h) Revenue from transit privileges
- (i) Revenue upon the basis of arbitraries out of freight rates for water transfers (ferriage lighterage and floatage)

**ITEMS TO BE CHARGED**

- (a) Amounts paid as bridge and ferry arbitraries on freight.
- (b) Amounts paid for completing a haul
- (c) Amounts paid for elevation of freight

- (d) Amounts paid for switching services in connection with the transportation of freight on the basis of switching tariffs and allowances out of through rates, including amounts paid for switching empty cars in connection with a freight revenue movement
- (e) Amounts paid for transferring freight between stations
- (f) Arbitraries and allowances to others for lighterage and wharfage
- (g) The carrier's proportion of overcharges resulting from the use of erroneous rates, weights classifications or computations
- (h) The carrier's proportion of refunds on account of errors in routing and billing
- (i) The carrier's proportion of uncollected revenue on freight lost or destroyed in transit
- (j) The carrier's proportion of uncollected tariff charges on damaged shipments for which charges neither shipper nor consignee is liable
- (k) Amounts paid on basis of tariff rates for loading and unloading livestock

**NOTE A:** Amounts paid for switching empty cars otherwise than in connection with loaded movements shall be charged to operating expense account 411. Other expenses, except that amounts paid for switching equipment for repairs shall be included in the appropriate equipment repair accounts

**NOTE B:** Other carriers' proportion of revenue and of uncollectible undercharges paid by the carrier on account of its errors in routing and billing shall be charged to operating expense account 411. Other expenses paid by the carrier on freight lost, destroyed or damaged in transit for which neither consignees nor consignors are liable shall be charged to operating expense account 418. Loss and damage—Freight

**NOTE D:** When a lessee company transports freight over the tracks of another carrier on the basis of a proportion of revenues under a joint arrangement it shall include the entire compensation in its revenues and statistics charging the appropriate joint facility expense and rental accounts with the amounts paid the lessor company and the lessor company shall credit the corresponding accounts

**NOTE E:** The accrued revenue derived from the transportation of cream sweet milk etc on a basis of lawful tariffs at rates per pack age regardless of weights shall be included in account 109 Milk

**NOTE F:** Revenue from the transportation of caretakers of freight shipments when not included as a part of the freight charges on the waybill covering the freight shipments, shall be credited to account 102 Passenger

**NOTE G:** This account shall be maintained so as to show separately payments and allowances (a) to railway express agencies (b) to

motor truck companies and others and (c) to shippers and consignees for terminal collection and delivery services when performed in connection with line haul transportation of freight on the basis of freight tariff rates; also (d) payments for switching services when performed in connection with line haul transportation of freight on the basis of switching tariffs and allowances out of freight rates including the switching of empty cars in connection with a revenue movement and (e) payments on basis of tariff rates for loading and unloading live stock

**102 Passenger**

This account shall include the revenue from transportation of passengers at passenger tariff fares; from the transportation of passengers at special fares as provided by law and from incidental charges in connection therewith

**ITEMS TO BE CREDITED**

- (a) Revenue from local passenger fares
- (b) The carrier's proportion of revenue from interline passenger fares
- (c) Revenue from extra fares
- (d) Revenue from additional fares or charges for exclusive use of a passenger car drawing room compartment bedroom etc
- (e) Revenue from mileage and scrip coupons honored for all services covered by this account
- (f) Revenue from transportation of passengers in special cars or on special trains when charge is based on passenger fare per capita regardless of the number of passengers actually transported
- (g) Revenue from a guaranteed minimum amount not based on per capita fare for transportation of passengers on special or chartered trains
- (h) Cash fare penalty collections
- (i) Unclaimed collections and deposits for transportation of passengers
- (j) Passenger fare overcharges based on passenger fares
- (k) Revenue from transportation of corpses based on water transfers (ferriage) bridge tolls and transfers between railway stations or between railway stations and docks received as arbitraries in division of passenger fares

**ITEMS TO BE CHARGED**

- (a) Amounts paid as bridge tolls and also for ferry depot to depot and depot to dock passenger transfer service
- (b) Amounts paid for switching in completing a passenger transportation movement
- (c) Amounts paid for switching empty passenger train cars in connection with transportation of passengers (See Note C)

- (d) Redemptions of unused and partially unused local tickets and redemptions of carrier's proportions of unused and partially unused interline tickets
- (e) Refund of extra fares cash fare penalty collections and overcharges in excess of tariff fares
- (f) Uncollectible undercharges

**NOTE A:** Gross receipts from the sale of mileage tickets and scrip books shall be credited to a suspense account. The suspense account shall be charged and this account credited with the value of coupons as honored in connection with any of the services provided for in Items To Be Credited

**NOTE B:** When a lessee company transports passengers over the tracks of another company under a joint arrangement upon the basis of a proportion of the passenger revenue it shall include the entire compensation in its passenger revenue and statistics charging the appropriate joint facility expense and rental accounts with the amounts paid the lessor company and the lessor company shall credit the corresponding joint facility accounts

**NOTE C:** Amounts paid for switching empty passenger train cars otherwise than in connection with loaded movements shall be charged to account 411. Other expenses except that when switched for repairs the amounts paid shall be included in account 317, Passenger train cars—Repairs

**NOTE D:** Revenue from the transportation of automobiles with or without trailers in freight service in connection with the transportation of passengers also revenue from loading and unloading automobiles at point of origin destination or enroute shall be credited to account 101 Freight

**103 Baggage**

This account shall include the revenue from the transportation of baggage packages baby carriages; bicycles household pets dogs, etc on passenger trains at other than freight or express tariff rates

**LIST OF ITEMS**

- (a) Revenue from transportation of baggage in excess of free allowances
- (b) Revenue from transportation of packages baby carriages bicycles household pets, dogs etc at baggage tariff rates
- (c) Revenue from transportation of baggage or other articles based upon excess value
- (d) Revenue from transportation of baggage when passenger does not make corresponding trip
- (e) Revenue from excess weight of corpses based on baggage tariff charges and from special charges for transferring corpses between depots

**107 Express.**

This account shall include the revenue from transportation of express matters and from use of facilities on trains and at stations incident to such transportation. When a railway company transacts an express business through its regular railway organization, the revenue therefrom shall be credited to this account.

NOTE: When contracts for express privileges provide specific amounts for the rent of facilities at stations such amounts shall be included in revenue account 142, Rents of buildings and other property.

**108 Other Passenger train.**

This account shall include the revenue derived from the operation of passenger trains not provided for elsewhere

**LIST OF ITEMS**

(a) The carrier's proportion of contract revenue derived from the operation over its line of sleeping parlor chair observation and other special passenger train cars owned and operated by companies other than The Pullman Company

(b) Value of portions of mileage tickets or coupons, scrip books or coupons including baggage circus and show scrip, unpresented and unredeemed

(c) Revenue from transportation of newspapers at local tariff rates or at portions of interline tariff rates

**109 Milk**

This account shall include the revenue from the transportation of cream sweet milk, skim milk, sour milk, buttermilk, condensed milk, butterfat, and smearcase or pot cheese upon the basis of lawful tariffs at rates per package regardless of weights

NOTE: The revenue from the transportation of milk upon the basis of lawful tariffs at rates per specified weights shall be included in revenue account 101, Freight

**110 Switching**

(a) This account shall include the revenue from switching service upon the basis of lawful tariff rates. To this account shall be credited the carrier's revenue upon the basis of tariff rates or the carrier's allowance out of through rates from the switching of cars of all kinds, loaded or empty either locally at a station or within a switching district, between connecting lines between local industries or between connecting lines

(f) Revenue from scrip coupons honored for any of the above mentioned service (See Note B)

(g) Overcharges on baggage transactions

(h) Revenue from transportation of emergency shipments and articles based on double gross weight etc

(i) Amounts received specifically to cover movement of special or chartered baggage cars including transportation of attendants regardless of whether the charge is based upon passenger tariff fares a stated minimum or any other basis. This includes box cars when used for baggage service

(j) Revenue from issuing duplicate baggage checks

NOTE A: Revenue derived from transportation of shipments of silk fish, etc in passenger trains at freight rates shall be included in account 101, Freight

NOTE B: Amounts of refunds uncollectible undercharges, etc involved in these credits shall be charged to this account

NOTE C: Gross receipts from the sale of baggage scrip books shall be credited to a suspense account. The suspense account shall be charged and this account credited with the value of the coupons as honored for any of the services covered by this account

**104 Sleeping Car**

This account shall include the revenue from berth and seat accommodations furnished in sleeping cars on the basis of berth or seat rates for the space occupied

**105 Parlor and Chair Car**

This account shall include the revenue from seat accommodations furnished in parlor observation chair and other special passenger cars when operated in passenger-train service or in special-train service at seat rates for space occupied

**106 Mail**

This account shall include the revenue from the transportation of mail at established rates for specified routes; from the use of railway post-office cars when in carrier's service transporting mails; from the use of special mail facilities; and from bonuses for special mail transportation. To this account shall be charged fines and penalties imposed by the Government when not collected from agents or employees

NOTE: The revenue from the transportation of mail matter and empty mail pouches on freight trains at freight tariff rates shall be included in account 101, Freight

(b) This account also shall include revenue from water transfers of other traffic such as the revenue from towing beyond lighterage limits and all other towing for which an extra charge is made; insurance of freight afloat when billed out at other than cost; storage of freight afloat; grain coverage in boats; pumping performed for outside parties; and from other similar sources

(c) To this account shall be charged amounts payable to other companies or individuals for extra lighterage extra towing and for all other service when such payments represent revenue collected and credited to this account and not a direct expense

NOTE: No revenue shall be included in this account for water transfers of passengers or shipments upon the basis of arbitrary rates of rates for transportation involving rail line haul

and local industries; revenue upon the basis of distinct tariff rates for trap-car and ferry-car service and for spotting cars; also the revenue from interwork switching at industrial plants and the revenue from penalty switching incident to the improper delivery of cars by other carriers

(b) To this account shall be charged amounts paid others for switching when such switching service is provided for in the switching rate charged by the carrier

NOTE: Penalty switching charges paid by the carrier shall be included in expense account 411, Other expenses

**113 Water Transfers.**

(a) This account shall include the revenue, from the transfer by water (freight lighterage and floorage) of passenger, freight vehicles and livestock, upon the basis of lawful local tariff rates

### Incidental Revenue Accounts

#### 130 Incidental

The primary accounts included in this general account are designed to show the amounts which the carrier becomes entitled to receive from services rendered incidentally with rail-line and water-line transportation for the use of facilities of which the expenses for operation and maintenance are not separable from railway expenses and from incidental sources not provided for elsewhere

#### 131 Dining and Buffet

This account shall include the revenue from dining and buffet service on trains and transfer boats

##### ITEMS TO BE CREDITED

- (a) Revenue from lunches furnished
- (b) Revenue from meals furnished
- (c) Revenue from liquors furnished
- (d) Revenue from tobacco furnished
- (e) Revenue from cigars and cigarettes furnished

#### 132 Hotel and Restaurant

This account shall include the revenue from hotels, restaurants and station lunch counters

##### ITEMS TO BE CREDITED

- (a) Revenue from the rent of rooms
- (b) Revenue from the use of baths
- (c) Revenue from the use of billiard tables
- (d) Revenue from the use of bowling alleys
- (e) Revenue from lunches furnished
- (f) Revenue from meals furnished
- (g) Revenue from liquors furnished
- (h) Revenue from tobacco furnished
- (i) Revenue from cigars furnished
- (j) Revenue from cigarettes furnished
- (k) Revenue from newspapers furnished
- (l) Revenue from periodicals furnished
- (m) Revenue from tonsorial service
- (n) Revenue from laundry work

NOTE: This account shall not include the revenues from hotels and restaurants which are entirely distinct from the carrier's transportation plant and the cost of which is included in balance sheet account 737 Miscellaneous physical property

#### 133 Station, Train, and Boat Privileges

This account shall include revenue from weighing vending and other automatic machines located at stations; from advertising at stations and on trains and on transfer boats; from the privilege of operating news stands at stations and selling papers periodicals fruit etc on

trains and on transfer boats; from telephone companies for the privilege of installing and operating commercial telephones at stations; from the operation of eating houses and dining and buffet service on trains and transfer boats when such operation is conducted by individuals or companies other than railway companies and when the expenses incurred by the carrier in connection therewith are not separable from its regular operating expenses; and from similar sources

#### 135 Storage; Freight

This account shall include the revenue from the storage of freight

#### 137 Demurrage

This account shall include the revenue from the detention of cars incident to loading, unloading, reconsigning, and stops in transit upon the basis of lawful tariffs for demurrage

#### 138 Communication

This account shall include the revenue from commercial operation of telegraph, telephone, radio and all other forms of communication systems. It shall also include amounts received from commercial operators of such systems whether as a proportion of earnings or otherwise for the privilege of transacting business in offices along the carrier's lines but only when the carrier furnishes some service of employees whose pay is included in its operating expenses

#### 139 Grain Elevator

This account shall include the revenue from the operation of grain elevators

##### ITEMS TO BE CREDITED

- (a) Revenue from the elevation of grain
- (b) Revenue from the storage of grain
- (c) Revenue from bagging grain
- (d) Revenue from screening grain
- (e) Revenue from blowing grain
- (f) Revenue from cooling grain
- (g) Revenue from clipping grain
- (h) Revenue from cleaning grain
- (i) Revenue from mixing grain
- (j) Revenue from transferring grain in elevators
- (k) Revenue from loading grain into and unloading grain from boats not covered by elevation charges
- (l) Revenue from trimming grain in boats when performed by elevator employees
- (m) Revenue from the sale of screenings and sweepings
- (n) Revenue from inspecting grain in elevators

#### 141 Power

This account shall include the revenue from the sale of electric current and other power

#### 142 Rents of Buildings and Other Property

This account shall include the revenue from the exclusive use of buildings and other property or portions thereof, such as depot and station grounds and buildings general and other offices, wharves, ferry landings, elevators, stockyards, fuel yards, enginehouses, repair shops and section and other houses when the property is operated and maintained in connection with the property used in the carrier's transportation operations and the expenses of maintaining and operating the rented portion cannot be separated from the expenses of that portion used by the carrier

NOTE: When the expenses of maintaining and those of operating property rented to others are separable the rents received shall be credited and the expenses of maintenance and operation shall be charged to appropriate income accounts

#### 143 Miscellaneous

This account shall include the revenue from railway operations not provided for elsewhere

##### LIST OF ITEMS

- (a) Amounts received for privilege of cutting hay along the right of way
- (b) Commissions received for collecting premiums on insurance policies from employees and installment payments for books watches etc sold by dealers to employees
- (c) Profit from jobbing and installing electric power lines for others

- (d) Revenue from boat demurrage
- (e) Revenue from freight and passenger privileges over a carrier's wharves and docks
- (f) Revenue from garnishee fees
- (g) Revenue from operation of coal and ore wharves, cold storage plants, coal storage plants, cotton compress plants and wood preserving plants
- (h) Revenue from privilege of mooring and anchoring boats at wharves and docks
- (i) Revenue from the sale of cinders produced by carrier
- (j) Revenue from use of carrier's bridges by pedestrians streetcar lines vehicles etc
- (k) Revenue from temporary use of carrier's tracks for detouring trains etc
- (l) Revenue from use of tracks incident to delays in loading or removing freight
- (m) Revenue from water furnished boats from water stations operated by the carrier
- (n) Revenue from weighing cars
- (o) The carrier's proportion of gross revenue from operation of clergy bureaus
- (p) The carrier's proportion of gross revenue from operation of ticket validation agencies
- (q) Collections made by station ushers (Red Caps) for the handling of passenger baggage
- (r) Revenue from loading and unloading livestock in transit by railroad, and from feeding, watering, bedding, shearing, dipping, inspecting and otherwise caring for such stock
- (s) Revenue from operation of parcel rooms and from storage of baggage

NOTE: When a bridge of one carrier is jointly used by itself and another carrier and such use is paid for on the basis of flat rent or charge per train mile or toll per passenger per ton, or per car, the compensation therefor shall be credited to the appropriate joint facility operating expense and income accounts

# JOINT FACILITY REVENUE ACCOUNTS

## 150 Joint Facility

The primary accounts included in this general account are designed to show the carrier's proportion of revenues collected by others in connection with operation of joint facilities and the amount payable by the carrier to other companies from operation of joint facilities

## 151 Joint Facility—Cr

This account shall include the carrier's proportion of revenue collected by others in connection with the operation of joint tracks yards terminals and other facilities including revenue from hotels restaurants grain elevators sale of power and other miscellaneous operations

**NOTE A:** The purpose of this account is to show the amounts of revenue from the operation of joint tracks yards terminals and other facilities operated by other companies which under existing contracts or agreements are credited by the operating company to the tenant companies which participate therein. The bill rendered by any creditor company against a debtor company for the latter's proportion of the expense of maintenance and operation of joint facilities which includes also a credit covering a proportion of the revenue to be paid over shall show the distribution of the credit for such proportion of the revenue separately

from the distribution of the expense of operation  
**NOTE B:** No credits shall be made to this account representing amounts creditable by the operating company to primary accounts 101 to 109 113 and 131

## 152 Joint Facility—Dr.

This account shall include that proportion of revenue from the operation of joint tracks yards terminals and other facilities which is creditable to other companies, including revenue from hotels restaurants grain elevators sale of power and other miscellaneous operations

**NOTE A:** The purpose of this account is to show the amount of revenue from operation of a terminal company or other carrier which under the terms of existing contracts or agreements covering the joint use of tracks yards and other facilities is credited to other carriers that participate in the benefits from such joint use. The bill rendered by a creditor company against a debtor company for the latter's proportion of expense of maintaining and operating joint facilities which includes a credit covering the debtor company's proportion of the revenues from operation of such joint facilities shall indicate separately the proper distribution of both the revenues and the expenses included in the bill and such distribution shall be adhered to by the debtor

**NOTE B:** No debits shall be made to this account representing amounts creditable by the operating company to primary accounts 101 to 109 113 and 131

# RAILWAY OPERATING EXPENSE ACCOUNTS

## Maintenance of Roadway and Structures

### 200 Maintenance of Way and Structures

The primary accounts included in this general account are designed to show the expenses of maintaining road property devoted to railway operations with the exception of shop machinery power plant machinery and power plant apparatus the expenses of maintaining which are includible in general account 300 Maintenance of equipment. The accounts for maintenance of way and structures shall be kept in such manner as to show separately by primary accounts the expenses directly assignable to sleeping car operations dining and buffet service hotels and restaurants grain elevators stockyards producing power sold and other miscellaneous operations

### 201 Superintendence

This account shall include:

(a) *Pay of officers* The pay of officers directly in charge of or engaged in the maintenance of roadway and structures

#### LIST OF OFFICERS

Vice president  
Assistant vice president  
General manager; Assistant  
General superintendent; Assistant  
Chief engineer  
Engineer  
Division engineer  
Bridge engineer  
Chief signal engineer  
Assistant engineers  
Architect  
Roadmaster; Assistant  
Master carpenter; Assistant  
Master mason  
Superintendent of roadway structures  
Superintendent of scales  
Inspector of maintenance  
Building inspector  
Inspector of roadway stores  
Supervisor; Assistant  
Fire Chief  
Fire inspector  
Sanitary inspector

### (b) *Pay of clerks and attendants*

The pay of clerks and other employees in the offices and on the business cars of officers whose pay is chargeable to this account

#### LIST OF EMPLOYEES

Chief clerk and other clerks and stenographers  
Draftsmen transtmen levelmen rodmen and chainmen  
Janitors messengers cooks and porters

(c) *Office and other expenses* Office expenses and other expenses of officers and employees whose pay is chargeable to this account; also amounts paid to other agencies; and others for investigations in connection with maintenance of way and structures

#### GENERAL EXPENSE AND SUPPLIES

Atlases maps and books for office use  
Business car service  
Fees and dues in associations  
Furniture repairs and renewals  
Heating lighting and power  
Official train service  
Periodicals and newspapers  
Provisions for business cars  
Rent and repairs of offices  
Telephone and telephone service  
Traveling expenses  
Water and ice

#### SUPPLIES FOR TECHNICAL ASSISTANTS

Barometers  
Cameras and compasses  
Camp equipage  
Chains for surveyors  
Drafting boards and instruments  
Field glasses magnifying glasses  
Field glasses magnifying glasses  
Instruments  
Maps and maps  
Marking chalk  
Papers blue print  
Planimeters  
Plumb lines  
Ranging poles  
Reading glasses  
Rods for surveyors  
Sextants  
Slide rules  
Telescopes and thermometers  
Tables triangles and tripods  
Transits traverse tables  
Other supplies

**NOTE A:** When employees designated above are specifically assigned to construction work their pay and expenses while thus employed shall be charged to the work upon which engaged

**NOTE B:** When officers designated above have supervision over more than one department their salaries, the pay of their clerks and attendants and their office and other expenses shall be apportioned equitably among the departments over which they have jurisdiction

**NOTE C:** No part of the pay and expenses of the officers and employees designated above shall be charged to other primary accounts under account 200 Maintenance of way and structures

**NOTE D:** The cost of stationery for maintenance of way and structures offices is chargeable to account 276 Stationery and printing

## 202 Roadway Maintenance

This account shall include:

- (a) *Care of roadbed* The cost of repairing roadbed

### ITEMS OF EXPENSE

**Blasting rocks**  
Building temporary tracks around slides and washouts  
Repairing and cleaning tile ditches open ditches and drains  
Crowning track ties with retaining earth  
Filling borrow and cattle pits  
Keeping tracks clear and repairing sub grade in case of washouts  
Landscape gardening along roadway  
Oiling roadbed  
Post driving and pressure grouting to promote stability of roadbed  
Removing temporary tracks around slides and washouts  
Removing dangerous rocks  
Removing slides  
Repairing roadbed damaged by washouts  
Restoring roadbed cuts, fills and embankments to standard width  
Sloping cuts  
Sodding roadway

**NOTE A:** The cost of drains or sewers laid under tracks shall be included in account 208, Bridges, trestles and culverts. The cost of landscape gardening within the limits of the grounds around buildings shall be included in the appropriate repair accounts for buildings

(b) *General cleaning* The cost of cutting removing and disposing of brush grass and weeds from the right of way; plowing and digging fireguards; dressing ballast and cutting sod lines; removing miscellaneous scrap drift cinders, dirt and other material from right of way and from road and terminal tracks (including tracks at stations engine yards and car yards); and cleaning streets used as roadways

**NOTE B:** Loading ashes at engine yard tracks shall be charged to the engine house expense accounts

(c) *Watching roadway* The cost of extinguishing fires on right of way and adjacent thereto, and of walking watching and patrolling tracks and right of way

**NOTE C:** The cost of watching and patrolling bridges buildings and miscellaneous property is provided for in accounts specifically relating to such property

(d) *Bank protection* The cost of repairs to riprap piling dikes piers breakwaters revetments and retaining

into an earth embankment the ledger value of the structure or of the portion thereof filled shall be credited to road and equipment account 6 Bridges trestles and culverts In case the bridge is used in lieu of a temporary trestle for the purpose of filling the estimated cost of such a temporary trestle shall be charged to road and equipment account 3 Grading The ledger value of the structure or portion thereof filled less the value of the salvage and the estimated cost of trestle charged to road and equipment account 3 Grading shall be charged to account 735 Accrued depreciation—Road and equipment

## 210 Elevated Structures

This account shall include the cost of repairing elevated structures and foundations of elevated railway systems

## 212 Ties

This account shall include the cost of cross switch, bridge and other track ties used in repairs of tracks

**NOTE A:** The cost of labor for unloading distributing and putting ties in tracks the cost of work train service in connection with the distribution of the ties laid and the cost of picking up and concentrating or disposing of the ties released shall be charged to account 220 Track laying and surfacing

**NOTE B:** The excess cost of metal ties applied in place of wooden ties over the cost at current prices of replacing in kind the wooden ties removed shall be charged to road and equipment account 8 Ties

**NOTE C:** The cost of ties used for repairs of tracks in quarries and ballast pits shall be included in the appropriate clearing accounts and of ties used for repairs of tracks on car floats in account 323 Floating equipment—Repairs

## 214 Rails

This account shall include the cost less salvage of rails used in the repairs of tracks; also the cost (estimated if actual is not known) of the excess in weight of heavy rails removed and lighter rails applied in repairs of tracks

**NOTE A:** The cost of labor for unloading distributing and putting rails in tracks the cost of work train service in connection with the distribution of the rails laid and the cost of picking up and concentrating the rails released shall be charged to account 220 Track laying and surfacing

**NOTE B:** The cost of the excess weight of heavier rails applied in repairs of tracks in replacement of lighter rails shall be included in account 9 Rails

**NOTE C:** The cost of rails used for repairs of tracks in quarries and ballast pits shall be included in the appropriate clearing accounts and of rails used for repairs of tracks on car floats to account 323 Floating equipment—Repairs

## 216 Other Track Material

This account shall include the cost (less salvage) of all track material used in the repairs of tracks other than ballast ties and rails

### ITEMS OF EXPENSE

Angle bars  
Anticreepers  
Connecting rods  
Derails  
Frog and guard rail blocking  
Frogs  
Guard rail clamps  
Guard rail fasteners  
Guard rails  
Main rods  
Nut locks  
Nuts  
Offset bars  
Rail braces  
Rail chairs  
Rail clips  
Rail joints  
Rail rests  
Rail shims  
Rail splices  
Splice bars  
Step chairs  
Switch chairs  
Switch crossings  
Switch lamps  
Switch locks and keys  
Switch points  
Switch stands  
Switch rods  
Switch targets  
Switches  
Tie plates  
Tie plugs  
Tie rods  
Track bolts  
Track insulators  
Track spikes

**NOTE A:** The cost of labor and train service for distributing, unloading and applying other track material used, and the cost of picking up and concentrating the material released shall be charged to account 220 Track laying and surfacing

**NOTE B:** The excess cost of improved or heavier track material applied for repairs of tracks under a definite plan of changing standards over the cost at current prices of material of the same weight and quality as that released shall be charged to road and equipment account 10 Other track material

**NOTE C:** The cost of other track material used for repairs of tracks in quarries and ballast pits shall be included in the appropriate clearing accounts and of such track material used for repairs of tracks on car floats in account 323 Floating equipment—Repairs

## 218 Ballast

This account shall include the cost of gravel stone slag cinders sand and like ballast material used in the repairs of tracks including the cost of work-train service and of unloading the material When the ballast taken from a pit is not sufficient to justify the opening of a clearing account the cost of gravel

(b) A list of shop and enginehouse structures and details appears in property account 20, Shops and Enginehouses

**Note A:** The cost of repairing machinery and other apparatus including special foundations in shops for maintenance of equipment shall be included in account 302 "Shop machinery"

**Note B:** Incidental cleaning including the cost of cleaning snow from roofs, when done by shop employees shall not be included in this account

### 237 Grain Elevators.

(a) This account shall include the cost of repairing structures for the transfer treatment and storage of grain, including conveyors machinery and fixtures; also the cost of maintaining the grounds appurtenant to such buildings

(b) The buildings referred to in this account are large elevators in which a regular grain business is handled or grain is stored for various owners

**Note A:** Small storage elevators at way stations where the freight is received for shipment etc are classed as station buildings

**Note B:** Incidental cleaning including the cost of cleaning snow from roofs, when done by grain elevator employees shall not be included in this account

### 239 Storage Warehouses

This account shall include the cost of repairing storage warehouses including machinery and fixtures therein; also the cost of maintaining the grounds appurtenant to such warehouses

The buildings referred to in this section are not the ordinary freight warehouses or stations where freight is received for shipment etc but are warehouses in which merchandise is stored and which the carrier operates as storage warehouses

**Note:** Incidental cleaning including the cost of cleaning snow from roofs when done by storage warehouse employees shall not be included in this account

### 241 Wharves and Docks.

(a) This account shall include the cost of repairing wharves located at marine lake or river docks; dredging waterways to approaches and around such structures, including removal of dredged-out material; and cutting ice in and around docks and wharves to prevent damage; also cost of repairs of crib-work racks or caissons for preserving

by station or office employees shall not be included in this account

### 229 Roadway Buildings

(a) This account shall include the cost of repairing roadway shops and other roadway buildings including drainage water gas and sewer pipes and their connections machinery and other apparatus fixtures and furniture in the buildings; also the cost of maintaining the grounds appurtenant to such buildings

(b) A list of roadway structures appears in property account 17 Roadway buildings

**Note A:** The cost of repairing signal and interlocker buildings and their appurtenances shall be included in account 249 Signals and Interlockers

**Note B:** Incidental cleaning including the cost of cleaning snow from roofs when done by employees regularly working in the buildings shall not be included in this account

### 231 Water Stations

(a) This account shall include the cost of repairing water stations fixtures, and appurtenances used by the carrier in its operations and the cost of maintaining the grounds appurtenant to such stations

(b) A list of water stations and appurtenances appears in property account 18 Water stations

**Note:** Incidental cleaning including the cost of cleaning snow from roofs, when done by water station employees shall not be included in this account

### 233 Fuel Stations

(a) This account shall include the cost of repairing fuel stations fixtures and appurtenances used by the carrier in its operations and the cost of maintaining the grounds appurtenant to such stations

(b) A list of fuel station structures and details appears in property account 19; Fuel stations

**Note:** Incidental cleaning including the cost of cleaning snow from roofs when done by fuel station employees shall not be included in this account

### 235 Shops and Enginehouses

(a) This account shall include the cost of repairing shop and enginehouse buildings, fixtures and appurtenances used by the carrier in repairing and preparing equipment and the cost of maintaining the grounds appurtenant to such buildings

(g) *Track changes* The cost of track work (exclusive of the cost of track material) in taking up and relocating tracks

(h) *Other expenses* The cost of track laying and surfacing work not provided for elsewhere and expenses such as repairing and replacing rail rests official track inspection train service and premiums in connection with track repairs

**Note:** Tools and supplies used by track repairmen and watchmen shall be charged to account 271 Small tools and supplies

### 221 Fences, Snowsheds, and Signs

This account shall include:

(a) *Fences* The cost of repairing right-of-way fences and snow and sand fences farm gates cattle guards, wing fences aprons and hedges excluding those around stockyards fuel stations station and shop grounds and building sites

(b) *Snowsheds* The cost of repairing snowsheds including cost of replacing trees for protecting tracks from snow

(c) *Signs* The cost of repairing signs other than those for identification of bridges signals stations and other structures (For items of signs see account 13 Fences snowsheds and signs)

**Note A:** The cost of repairing fences (other than right-of-way boundary fences) around stockyards fuel and water stations and other building sites shall be charged to the accounts appropriate for the cost of repairs of the structures

**Note B:** The cost of repairing signs for identifying bridges signals stations and other structures shall be included in the account appropriate for the cost of repairs of the structures

**Note C:** The cost of repairing crossing signals including crossing gates shall be included in account 249 Signals and Interlockers

### 227 Station and Office Buildings

(a) This account shall include the cost of repairing station and office buildings, fixtures and appurtenances (including those for heating and lighting) used by the carrier in its operations; also the cost of maintaining grounds appurtenant to such buildings

(b) A list of stations and office structures and appurtenances appears in property account 16 Station and office buildings

**Note:** Incidental cleaning including the cost of cleaning snow from roofs when done

and quarry rights and cost of sinking test holes shall be included in this account

**Note A:** The cost of loading cinders at ash pits shall be charged to account 388, Enginehouse expenses—Yard or to account 400 Enginehouse expenses—Train No charge to cover the value of cinders accumulated by the carrier shall be included in this account

**Note B:** The cost of labor putting ballast in tracks shall be included in account 220 Track laying and surfacing

**Note C:** The excess cost of ballasting tracks over the cost of replacing in kind to its maximum height and width the ballast previously put in the roadbed shall be charged to road and equipment account 11 Ballast.

**Note D:** Earth placed to form a crown in the middle of the track is not to be considered as ballast

**Note E:** The cost of ballast used for repairs of temporary tracks such as gravel pit or quarry tracks, shall be included in the appropriate clearing accounts

### 220 Track Laying and Surfacing

This account shall include:

(a) *Applying ballast* The cost of labor expended in preparing the roadbed, and applying ballast for repairs of tracks

(b) *Applying ties* The cost of labor expended in unloading distributing and applying ties for repairs of tracks; in gathering up and disposing of the ties released; and in respacing ties

(c) *Applying rails* The cost of labor expended in unloading distributing cutting slotting drilling adzing for and laying rails for repairs of tracks; in gathering up and loading rails released; and in adjusting for expansion and contraction of rails

(d) *Applying other track material* The cost of labor expended in unloading distributing and applying other track material for repairs of tracks; and the cost of gathering up and loading the material released

(e) *Track maintenance* The cost of labor expended in alining, surfacing gauging and shimming tracks; in tightening track bolts and track spikes; in restoring rails ties, and ballast in case of washouts derailments and wrecks; and in taking up tracks

(f) *Train service* The cost of work-train service (except work trains distributing ballast material) in connection with work pertaining to track laying and surfacing

the depth of water in docks; and cost of repairs of guards piling, and other protection against damage by drift or ice

(b) A list of details of wharves and docks appears in property account 23 'Wharves and docks'

**NOTE A:** The cost of repairing buildings tracks and machinery (not bridge machinery) on wharves and piers shall be charged to the appropriate expense accounts

**NOTE B:** The cost of repairing coal and ore wharves shall be charged to account 243 Coal and ore wharves

**NOTE C:** Incidental cleaning when done by regular wharf employees shall not be included in this account

#### 243 Coal and Ore Wharves

This account shall include the cost of repairing wharves and docks including the cost of repairing conveyors machinery and fixtures for the transfer, treatment blending or storage of coal or ore

**NOTE A:** The structures referred to in this account do not include small transfer or storage trestles at stations where coal is stored or delivered such trestles being classed as station buildings

**NOTE B:** Incidental cleaning including the cost of cleaning snow from roofs when done by coal and ore wharf employees shall not be included in this account

#### 247 Communication Systems

(a) This account shall include the cost of repairing telegraph telephone, radio radar inductive train communication and other communication systems including terminal equipment

(b) Details of telegraph and telephone terminal equipment; telegraph and telephone outside plant; radio radar and inductive train communication equipment and other items appear in property account 26 Communications systems

**NOTE A:** Repairs of radio radar, or train-phone equipment (except portable apparatus) which is permanently attached to locomotives, cars work equipment or other rolling stock or floating equipment shall be included in the same account as repairs of the equipment on which installed Repairs of wireless sets for instructions advertising or entertainment shall be included in the same account as repairs of the buildings in which located

**NOTE B:** Repairs of communications systems of limited extent not connected with other systems, used for special purposes and usually installed within a single building group of buildings or within the limits of a

station or shop layout or yards shall be included in the same account as repairs of the building in which located or in the account appropriate for the service with which associated

**NOTE C:** The pay rent other office expenses and traveling expenses of officers their clerks and attendants who supervise or are engaged both in maintenance and operation shall be apportioned equally between this account and account 47 Communication system operation

#### 249 Signals and Interlockers

This account shall include the cost of repairing signals and interlockers governing the movements of locomotives and trains and for the protection of traffic at crossings including towers and other buildings, furniture, fixtures and machinery in connection therewith; also the cost of repairing buildings and machinery of power plants used primarily for the production of power for the operation of signals and interlockers For list of items see account 27 Signals and interlockers

**NOTE A:** The pay and expenses of employees engaged both in maintaining and operating signals and interlockers shall be apportioned equitably between this account and account 404 Signal and interlocker operation

**NOTE B:** When signal or interlocking apparatus is located in station buildings only the cost of repairing the signal or interlocking apparatus shall be charged to this account The cost of repairing the building shall be included in account 227 Station and office buildings

**NOTE C:** The cost of repairs of track material such as special rail braces special rods switches, special track fastenings split rails derails derail stands and frogs, used in connection with interlockers shall be included in account 216 Other track material

**NOTE D:** When derails are arranged so as to be thrown from switch stands the cost of labor expended for repairs of the connections between the switch stands and the derails and devices for throwing the derails shall be included in account 220 Track laying and surfacing

**NOTE E:** The salaries office expenses and traveling expenses of supervisors or inspectors when engaged in maintaining both telegraph and telephone lines and signals and interlockers shall be equitably apportioned between this account and account 247 Communication systems

#### 253 Power Plants

This account shall include the cost of repairing power-plant and substation buildings including all foundations other than those special to particular machines and apparatus; and also dams, canals

pipe lines and accessories devoted to the utilization of water for power Gas and sewer pipes and their connections fixtures (including wiring) for lighting and heating and miscellaneous fixtures shall be considered as a part of the power-plant buildings The power-plant buildings here referred to are those in which power is produced for the operation of trains and cars and for general purposes For list of items see road and equipment account 29 Power plants

**NOTE A:** The cost of repairing power plant machinery including small stacks resting on boilers and special foundations for machines shall be included in account 304 Power plant machinery

**NOTE B:** The cost of repairing the buildings and the power machinery and other apparatus of plants used primarily for operating signals and interlockers shall be included in account 249 Signals and interlockers

#### 257 Power transmission Systems

This account shall include the cost of repairing systems for conveying electricity steam and compressed air from producing plants to place or building where used; including the cost of conduits and poles cross arms, insulator pins brackets and other pole fixtures used in repairs and of repairing other structures for power-transmission and distribution systems including those for electric railway operation and lighting systems for general lighting purposes For a list of items see account 31 Power-transmission systems

**NOTE A:** The cost of repairing the portions of distribution systems located within shop buildings and station and office buildings shall be included in the accounts provided for the cost of maintaining the buildings The cost of repairing distribution systems in plants used primarily for operating signals and interlockers shall be included in account 249 Signals and interlockers

**NOTE B:** The cost of repairing conduits and poles and fixtures for telegraph and telephone lines shall be included in account 247, "Communication systems" If poles and conduits are used both for telegraph and telephone lines and for power-distribution lines the cost of repairs thereof shall be included in the account appropriate according to their predominant use

#### 265 Miscellaneous Structures

This account shall include the cost of repairing permanent structures not provided for elsewhere including the cost of repairing all furniture and fixtures to equip them for use It shall also

include the cost of maintenance of the grounds appurtenant to such structures

**NOTE A:** When separable the cost of maintaining structures which are rented to other companies or individuals shall be charged to other income account in which is included the rent received for use of the structures

**NOTE B:** Incidental cleaning including the cost of cleaning snow from roofs when done by employees regularly working in miscellaneous buildings shall not be included in this account

#### 266 Road Property; Depreciation

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable road property with the exception of shop machinery and power-plant machinery

**NOTE:** Depreciation charges applicable to shop machinery and power plant machinery shall be included in account 305, Shop and power plant machinery—Depreciation

#### 267 Retirements; Road

(a) This account shall include charges for the service value (ledger value less value of salvage) of nondepreciable road property retired excluding rail ties and other track material and ballast used in repairs as defined in this classification When rails ties and other track material are removed and replaced in the process of repairing tracks such work shall be classified as maintenance and the items of material so replaced are not to be recorded as nondepreciable road property retired

(b) When road property previously subject to amortization accounting under section 124 'Amortization deductions' of the Internal Revenue Code is retired the difference between the service value (ledger value less value of salvage and insurance recovered) thereof, and the balance in account 736, Amortization of defense projects—Road and equipment, with respect to the specific facility retired after appropriate adjustment for any depreciation accrued thereon shall be included in this account

(c) This account shall also be charged with such amounts as are currently credited to accounts 72 to 80, inclusive in accounting for the retirement of road property

**NOTE:** The cost of dismantling or demolishing the property if borne by the carrier shall be charged to account 270 'Dismantling retired road property or

account 306 Dismantling retired shop and power plant machinery as may be appropriate

**269 Roadway Machines**

(a) This account shall include the cost of repairing roadway machines which are used for the repairs of roadway and structures

(b) A list of roadway machines appears in property account 37 Roadway machines'

**NOTE A:** The cost of repairing machines in the maintenance of equipment shops shall be included in account 302 Shop machinery as provided for therein

**NOTE B:** The cost of repairing roadway machines such as pile drivers log loaders hoisting engines and concrete mixers when permanently mounted for movement on carrier's tracks shall be included in account 326 Work equipment—Repairs

**270 Dismantling Retired Road Property**

This account shall include the cost of dismantling retired road property and recovering the salvage therefrom with the exception of material recovered in connection with repairs of tracks and of dismantling retired shop and power-plant machinery The cost of removing gathering up and disposing of track material in connection with repairs of tracks is includible in account 220 Track laying and surfacing and the cost of dismantling retired shop and power-plant machinery and recovering the salvage therefrom is includible in account 306 Dismantling retired shop and power-plant machinery

**271 Small Tools and Supplies**

This account shall include:

(a) *Roadway and track tools* The cost of roadway tools (except special tools provided for elsewhere) including the cost of repairing such tools

**LIST OF ROADWAY AND TRACK TOOLS**

Adzes	Cables
Anvils	Cans oil
Augers	Cans water
Axes	Cant hooks
Ballast forks	Chains
Bars claw	Chisels track
Bars crow	Chisels wood
Bars lining	Curbing hooks
Bars pinch	Dippers
Bars raising	Drawing knives
Bars tamping	Drill bits
Braces and bits	Drills (portable)
Brooms	Flags signal
Brush hooks	Furnaces (portable)
Cable stretchers	Grindstones

gathering portable snow and sand fences; and cost of tools furnished for the purpose; also cost of storing fences

(b) The account also shall include cost of removing accumulations of snow, ice and sand cost of snow-plow and flanger service, and of work-train service; cost of applying and removing flang-ers from locomotives and cars and of slatting pilots; cost of salt to keep switches clear; and cost of meals and lodging for men employed in removal service

**273 Public Improvements; Maintenance**

(a) This account shall include the por-tion borne by the carrier of the expense of maintenance of public improvements or whether done by public authority or by the carrier's employees under govern-mental requirement

(b) By public improvements are meant improvements for public benefit such as curbing, grading guttering and paving of streets overhead highway bridges in-cluding approaches; drainage sewer ir-rigation and water systems; flood protec-tion parks sidewalks etc For list of items see account 39, Public improve-ments—Construction

**NOTE A:** The expense of repairing paving within the grounds of buildings or other structures shall be charged to the accounts provided for repairs of the structures

**NOTE B:** Assessments for maintaining pub-lic improvements included in the general tax levy for a regular taxing district shall be charged to the appropriate tax account in income

**NOTE C:** Interest and penalties based on monthly or annual percentage rates for failure to pay assessments within the allotted time shall be included in account 547, In-terest on unfunded debt

**274 Injuries to Persons**

(a) This account shall include ex-penses on account of injuries to persons which occur directly in connection with the maintenance of way and structures including injuries occurring in connec-tion with the operation of work trains in such service and injuries caused by defective highways within the right of way

(b) The account shall also include ex-penses on account of injuries to employ-ees incurred while demolishing struc-tures the maintenance of which would be chargeable to maintenance of way and structures; services of employees and others called in consultation in connec-tion with the right of way

**NOTE:** The premiums paid by the carrier to its insurance fund shall be credited to an insurance reserve account to which account shall be charged the amounts of all claims for injuries to persons and damages to the property covered by its insurance To such account shall also be charged all reinsurance premiums paid to insurance companies and

tion with claim adjustments; and pay and expenses of employees while en-gaged as witnesses at inquests and law-suits

(c) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto except that it is not required to anticipate items which would not ap-preciable affect the account

**ITEMS OF EXPENSE**

Artificial limbs	Carriage fees	Claim adjusters and clerks services
Claim adjusters office expenses	Compensation for injuries or death costs	Final judgments including plaintiffs court costs
Funeral expenses	Hospital attendance	Medical and surgical services
Medical and surgical supplies	Notarial fees	Nursing
Railway transportation	Undertakers services	Undertakers supplies
Witnesses fees and expenses at inquests and lawsuits		

**NOTE A:** Expenses incident to personal in-jury suits not otherwise provided for shall be included in account 454 Law expenses

**NOTE B:** The pay office rent office expenses, and other expenses of claim adjusters claim clerks and others in charge of or engaged in connection with claim cases, when not as-signable to a distinct class of claims shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged

**275 Insurance**

This account shall include premiums except reinsurance premiums, for insur-ing the carrier against loss through in-juries to persons or damage to or de-struction or loss of property, whether caused by fire accident or other cause when such loss to the carrier would be chargeable to maintenance of way and structures; also premiums on fidelity bonds of employees whose pay is charge-able to maintenance of way and struc-tures

to it shall be credited all amounts recovered from insurance companies in reimbursement for losses under such reinsurance

#### 276 Stationery and Printing

This account shall include the cost of stationery and printing used in connection with maintenance of way and structures. The account shall include the cost of adding machines typewriters and other office appliances which replace comparable items worn out consumed or for other cause are no longer in use

**NOTE:** The cost of dictionaries periodicals technical books etc shall be included in the appropriate superintendence accounts

#### 277 Employees Health and Welfare Benefits

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries contributions directly to employees health and welfare funds and salaries and other expenses incurred directly in conducting relief benefit, and medical departments for the benefit of officers and employees engaged in maintenance of roadway and structures

**NOTE:** The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457 Pensions

#### 278 Maintaining Joint Tracks, Yards, and Other Facilities—Dr

This account shall include the carrier's proportion of the costs incurred by others in maintaining joint tracks yards terminals and other facilities

**NOTE:** The purpose of this account is to show the amounts accruing against the carrier for its proportion of the cost of maintaining tracks yards and other roadway and structure facilities maintained by others and in the joint use of which the carrier participates

#### 279 Maintaining Joint Tracks, Yards, and Other Facilities—Cr

This account shall include amounts chargeable to others as their proportion

tions of the cost incurred by the carrier in maintaining joint tracks yards terminals and other facilities

**NOTE:** The purpose of this account is to show the amounts accruing in favor of the carrier and against others for their proportions of the cost of maintaining tracks yards, and other roadway and structure facilities maintained by the carrier and in the joint use of which others participate

#### 280 Equalization; Way and Structures

This account shall include adjustments of the differences between the actual and the budgeted or authorized maintenance of way and structures expenses. The amounts included in this account shall concurrently be debited or credited to account 773 Equalization reserves

#### 281 Right of way Expenses

This account shall include the cost to the carrier of maintaining structures owned by or exclusively used by others such costs having been assumed by the carrier in order to acquire or to secure a less restricted use of its right of way. The structures here referred to are those such as bridges above the carrier's tracks tunnels and roadways under the carrier's tracks

**NOTE:** The cost of maintaining public improvements is includible in account 273 Public Improvements—Maintenance

#### 282 Other Expenses

This account shall include all expenses in connection with maintenance of way and structures not provided for elsewhere

##### ITEMS OF EXPENSE

Pay and expenses of maintenance of way employees attending conferences with officers in connection with wage disputes. Fees paid arbitrators in wage disputes with maintenance of way employees. Payments to maintenance of way employees for time absent on account of sickness when not compensation for personal injuries. Gratuities paid to persons for discovering defective rails etc

#### Maintenance of Equipment

##### 300 Maintenance of Equipment

The primary accounts included in this general account are designed to show the expenses of maintaining the carrier's equipment and the carrier's expense for the repairs of other equipment used in its operations also the cost of maintaining road property classified as shop and power plant machinery. The repair accounts shall include foreign roads freight charges for transporting the carrier's equipment to shops for repairs and for transporting such equipment to the carrier's line after repairs have been made. No charge shall be made to these accounts for transporting equipment in the carrier's transportation service trains to shops for repairs or from shops after repairs have been made. The accounts for maintenance of equipment shall be kept in such manner as to show separately by primary accounts the expenses directly assignable to sleeping car operations, dining and buffet service, producing power sold and other miscellaneous operations

##### 301 Superintendence

This account shall include:

(a) *Pay of officers* The pay of officers directly in charge of or engaged in the maintenance of equipment

##### LIST OF OFFICERS

Vice president  
Assistant vice president  
General superintendent of motive power; Assistant  
Mechanical superintendent  
Superintendent of motive power; Assistant  
Mechanical engineer; Assistant  
Chief chemist  
General equipment inspector  
Engineer of tests  
Supervisor of car department  
Electrical engineer; Assistant  
Chemist and assistant chemist  
Master car builder  
Master mechanic  
General foreman  
Chief car inspector  
Inspector of passenger train cars  
General car inspector  
Traveling boiler inspector

(b) *Pay of clerks and attendants* The pay of clerks and other employees in the offices and on business cars of officers whose pay is chargeable to this account

##### LIST OF EMPLOYEES

Chief motive power clerks other clerks and stenographers

Draftsmen  
Messengers cooks and porters

(c) *Office and other expenses* Office expenses and other expenses of officers and employees whose pay is chargeable to this account and amounts paid to detective agencies and others for investigations in connection with repairs of equipment

##### ITEMS OF EXPENSES AND SUPPLIES

Atlases maps and books for office use

Barometers

Business car service

Drafting instruments and supplies

Engineering supplies

Fees and dues in technical associations

Furniture repairs and renewals

Heating lighting, and power

Official train service

Periodicals and newspapers

Provisions for business cars

Rent and repairs of offices

Telegraph and telephone service

Traveling expenses

Water and ice

**NOTE A:** When employees designated above are specifically assigned to construction work their pay and expenses while thus employed shall be charged to the work upon which engaged

**NOTE B:** When officers designated above have supervision over more than one department their salaries, the pay of their clerks and attendants and their office and other expenses shall be apportioned equitably among the departments over which they have jurisdiction

**NOTE C:** The cost of stationery purchased for maintenance of equipment offices is chargeable to account 334 Stationery and printing

**NOTE D:** The pay of general foremen in small shops who exercise direct supervision over all departments unassisted by departmental foremen shall be apportioned through clearing account "Shop expenses"

##### 302 Shop Machinery.

(a) This account shall include the cost of repairing machinery and other apparatus including special foundations, in shops and enginehouses.

(b) A list of shop machinery appears in property account 44 Shop machinery

**NOTE A:** The cost of repairing power plant machinery for shop power when located in distinct buildings shall be included in account 304 Power plant machinery

**NOTE B:** The cost of repairing boilers used

(other than work equipment) including appurtenances and cost of small hand tools used in repairs. The pay and expenses of captains and engineers and of boat employees while engaged on maintenance of floating equipment shall be included in this account.

(b) A list of floating equipment and appurtenances to such equipment appears in property account 56 Floating equipment.

**326 Work Equipment; Repairs**

- (a) This account shall include the cost of repairing rail and floating work equipment including appurtenances and cost of small hand tools used in repairs.
- (b) The cost of fitting up commercial cars for work service in connection with maintenance and operation; the cost of refitting them for commercial service; the cost of repairs to locomotives while in service for repairs of road and equipment; and the cost of repairs to foreign cars damaged while in such service shall be included in this account; also amounts paid in settlement for such cars destroyed in such service.
- (c) A list of work equipment and appurtenances to such equipment appears in property account 57 Work equipment.

**Note:** The cost of repairs to work equipment on account of construction work shall be included in the cost of the construction work on which it is used.

**328 Miscellaneous Equipment; Repairs**

This account shall include the cost of repairing miscellaneous equipment such as automobiles and other highway vehicles.

**329 Dismantling Retired Equipment**

This account shall include the cost of tearing down retired equipment and recovering the salvage therefrom.

**330 Retirements; Equipment**

(a) When equipment previously subject to amortization accounting under section 124 Amortization deductions, of the Internal Revenue Code is retired the difference between the service value (ledger value less value of salvage and insurance recovered) thereof and the balance in account 736 Amortization of defense projects—Road and equipment with respect to the specific equipment retired after appropriate adjustment for

pairs. This account shall also include the net loss sustained on account of the destruction of foreign freight cars in the carrier's transportation service and amounts paid to others for repairs of freight cars for which the carrier is liable.

(b) A list of freight-train cars and appurtenances to such cars appears in property account 53 Freight-train cars.

**Note A:** The cost of candles, wicks, lamp chimneys, globes and shades for oil or other lamps in freight train cars shall be charged to account 402 Train supplies and expenses.

**Note B:** The cost of repairing freight train cars of foreign lines waybilled as freight and damaged in transit shall be charged to account 418, Loss and damage—Freight; and the cost of repairing freight train cars of foreign lines having trackage rights over the carrier's line when damaged by collision wreck, or other cause for which the carrier is liable shall be charged to account 416 Damage to property.

**317 Passenger train Cars; Repairs**

(a) This account shall include the cost of repairing passenger-train cars and appurtenances and the cost of repairing motor equipment affixed to passenger-train cars used in transportation service; small hand tools used in repairs; the net loss sustained on account of the destruction of foreign passenger-train cars in the carrier's transportation service and amounts paid to others for repairs of passenger-train cars for which the carrier is liable.

(b) A list of passenger-train cars and appurtenances to such cars appears in property account 54 Passenger-train cars.

**Note A:** The cost of candles, wicks and lamp chimneys and of globes and shades for electric and other lights in passenger-train cars shall be charged to account 402 Train supplies and expenses.

**Note B:** The cost of repairing passenger train cars of foreign lines which are waybilled as freight and have been damaged in transit shall be charged to account 418, Loss and damage—Freight, and the cost of repairing passenger train cars of foreign lines having trackage rights over the carrier's line when damaged by collision wreck or other cause for which the carrier is liable shall be charged to account 416 Damage to property.

**323 Floating Equipment; Repairs**

(a) This account shall include the cost of repairing floating equipment

**308 Steam Locomotives; Repairs**

(a) This account shall include the cost of repairing transportation service steam locomotives and tenders including all appurtenances and the cost of small hand tools used in repair work. This account shall also include the cost of work-train service for the transportation of locomotives without steam to shops for repairs including the pay and expenses of caretakers and the pay and expenses of cartakers of locomotives without steam which are hauled in transportation service trains to shops for repairs; also notarial fees in connection with reports on conditions of locomotives.

(b) A list of appurtenances to locomotives appears in property account 51 Steam locomotives.

**Note A:** The cost of inspecting smoke stacks and ash pans of locomotives in service shall be included in the appropriate enginehouse expense accounts.

**Note B:** The cost of repairing steam locomotives and tenders of foreign lines waybilled as freight and damaged in transit shall be charged to account 418, Loss and damage—Freight; and the cost of repairing steam locomotives and tenders of foreign lines having trackage rights over the carrier's line damaged by collision wreck or other cause for which the carrier is liable shall be charged to account 416 Damage to property.

**Note C:** The cost of running locomotives under steam to shops for repairs in connection with transportation service shall be included in the cost of the service in connection with which the movement occurs.

**Note D:** The cost of repairing steam locomotives used solely in work service in connection with operations shall be included in account 326 Work equipment—Repairs. The cost of repairing locomotives on account of construction work shall be included in the cost of the work.

**311 Other Locomotives; Repairs**

This account shall include the cost of repairs of transportation service locomotives other than steam locomotives analogous to those set forth for steam locomotives in account 308 Steam locomotives—Repairs.

**314 Freight train Cars; Repairs**

(a) This account shall include the cost of repairing freight-train cars and appurtenances and the cost of repairing motor equipment affixed to freight-train cars engaged in transportation service; also cost of small hand tools used in re-

pairing machinery and other apparatus including special foundations for generating and transforming power used for the operation of trains and cars or to furnish power heat, and light for general purposes. For list of items see account 45 Power-plant machinery.

**Note A:** The cost of repairing power machinery and apparatus in shop power plants shall be included in account 302 Shop machinery.

**Note B:** The cost of repairing power machinery and apparatus in stations and offices used primarily for station and office purposes shall be included in account 227 Station and office buildings.

**Note C:** The cost of repairing power machinery and apparatus in plants used primarily for operating signals and interlockers shall be included in account 249 Signals and interlockers.

**Note D:** The cost of repairing foundations other than those special to particular machines and other apparatus shall be included in the cost of repairing the building and not in this account.

**Note E:** The cost of repairing machinery in distinct plants for furnishing power both for carrier purposes and for sale shall be included in this account. When plants are used solely for generating power for sale the cost of repairs shall be included in account 534 Expenses of miscellaneous operations.

**304 Power plant Machinery**

This account shall include the cost of repairing machinery and other apparatus including special foundations for generating and transforming power used for the operation of trains and cars or to furnish power heat, and light for general purposes. For list of items see account 45 Power-plant machinery.

**305 Shop and Power plant Machinery; Depreciation**

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of property the cost of which is includible in accounts 44 Shop machinery and 45 Power-plant machinery.

**306 Dismantling Retired Shop and Power plant Machinery**

This account shall include the cost of dismantling retired shop and power-plant machinery and recovering the salvage therefrom.

any depreciation accrued thereon shall be included in this account  
(b) This account shall also be charged with such amounts as are concurrently credited to accounts 72 to 80 inclusive, in accounting for the retirement of equipment

### 331 Equipment; Depreciation

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of equipment the ledger value of which is includible in accounts 51 to 54 and 56 to 58 all inclusive

### 332 Injuries to Persons

This account shall include expenses on account of injuries to persons which occur directly in connection with repairs of equipment. Services of employees and others called in consultation in relation to claim adjustments pay and expenses of employees while engaged as witnesses at inquests and lawsuits shall be included in this account. This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto except that it is not required to anticipate items which would not appreciably affect the account

#### ITEMS OF EXPENSE

Artificial limbs  
Carriage fees  
Claim adjusters and clerks services  
Claim adjusters office expenses  
Compensation for injuries or death  
Final judgments including plaintiffs court costs  
Funeral expenses  
Hospital attendance  
Medical and surgical services  
Medical and surgical supplies  
Notarial fees  
Nursing  
Railway transportation  
Undertakers services  
Undertakers supplies  
Witnesses fees and expenses at inquests and lawsuits

NOTE A: Expenses incident to personal injury suits not otherwise provided for shall be included in account 454 Law expenses

NOTE B: The pay, office rent, and office and other expenses of claim adjusters claim clerks and others in charge of or engaged in connection with claim cases when not assignable to a distinct class of claims shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged

### 333 Insurance

This account shall include premiums except reinsurance premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire accident or other cause when such loss to the carrier would be chargeable to maintenance of equipment; also premiums on fidelity bonds of employees whose pay is chargeable to maintenance of equipment

NOTE: The premiums paid by the carrier to its insurance fund shall be credited to an insurance reserve account to which account shall be charged the amount of all claims for injuries to persons and damages to the property covered by its insurance. To such account shall also be charged all reinsurance premiums paid to insurance companies and to it shall be credited all amounts recovered from insurance companies for damage to the property reinsured by them

### 334 Stationery and Printing

This account shall include the cost of stationery and printing used in connection with maintenance of equipment. The account shall include the cost of adding machines typewriters and other office appliances which replace comparable items worn out consumed or for other cause are no longer in use

NOTE: The cost of dictionaries, periodicals technical books etc shall be included in the appropriate superintendence accounts

### 335 Employees Health and Welfare Benefits

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries contributions directly to employees health and welfare funds and salaries and other expenses incurred directly in conducting relief benefit and medical departments for the benefit of officers and employees engaged in maintenance of equipment

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457 Pensions

### 336 Joint Maintenance of Equipment Expenses—Dr.

This account shall include the carrier's proportion of expenses incurred by others in maintaining equipment used in the operation of joint facilities including the carrier's proportion of the expenses

of repairing such equipment damaged by accidents when such expenses are participated in by more than one carrier. It shall also include the carrier's proportion of expenses incurred by others in maintaining joint shop machinery and power-plant machinery

NOTE: The purpose of this account is to show the amount accruing against the carrier for its proportion of the expense of maintaining equipment shop machinery and power plant machinery which is maintained by others and in the joint use of which the carrier participates

### 337 Joint Maintenance of Equipment Expenses—Cr

This account shall include the amount chargeable to others as their proportion of expenses incurred by the carrier in maintaining equipment used in the operation of joint facilities and for expenses of repairing equipment damaged by accidents, when such expenses are participated in by more than one carrier. It shall also include amounts chargeable to others as their proportions of the expenses incurred by the carrier in maintaining joint shop machinery and power-plant machinery

NOTE: The purpose of this account is to show the amounts accruing in favor of the

carrier due from others for their proportions of the expense of maintaining equipment shop machinery and power plant machinery which is maintained by the carrier and in the joint use of which others participate

### 338 Equalization; Equipment

This account shall include adjustments of the differences between the actual and the budgeted or authorized maintenance of equipment expenses. The amounts included in this account shall concurrently be debited or credited to account 773 'Equalization reserves

### 339 Other Expenses

This account shall include expenses in connection with the maintenance of equipment not properly chargeable to other accounts for maintenance of equipment or to clearing accounts such as Material store expenses and Shop expenses

#### ITEMS OF EXPENSE

Pay and expenses of mechanical department employees attending conferences with officers in connection with mechanical department wage disputes  
Fees paid arbitrators in connection with mechanical department wage disputes  
Payments to mechanical department employees for time absent on account of sickness when not in compensation for personal injuries

## Traffic Expense Accounts

### 350 Traffic

The primary accounts included in this general account are designed to show the expenses incurred for advertising soliciting and securing traffic for the carrier's lines and for preparing and distributing tariffs governing such traffic

### 351 Superintendence

This account shall include:

(a) *Pay of officers* The pay of officers directly in charge of or engaged in supervising the procurement of traffic, and the preparation and distribution of tariffs division sheets and classifications

#### LIST OF OFFICERS

Vice president  
Assistant to vice president  
Traffic director;  
Assistant  
General freight agent  
Chief of tariff bureau  
Traveling tariff inspector  
Live stock agent  
General passenger agent; Assistant.

(b) *Pay of clerks and attendants* The pay of clerks and other employees in the offices and on business cars of officers whose pay is chargeable to this account This includes chief clerk other clerks and stenographers; messengers cooks porters and other attendants

(c) *Office and other expenses* Office expenses and other expenses of officers and employees whose pay is chargeable to this account

#### ITEMS OF EXPENSE

Atlases maps and books for office use  
Barometers  
Business car service  
Express charges  
Fees and dues in commercial and other clubs  
Furniture repairs and renewals  
Heating lighting and power

NOTE A: When officers designated above have supervision over more than one department their salaries the pay of their clerks and attendants and their office and other expenses shall be apportioned equitably among the departments over which they have jurisdiction

NOTE B: The pay and expenses of officers engaged exclusively in soliciting traffic are chargeable to account 352 Outside agencies

NOTE C: The cost of stationery for traffic offices is chargeable to account 358. Stationery and printing except stationery chargeable to accounts 354 355 and 356

### 352 Outside Agencies

(a) This account shall include the pay and the office traveling and other expenses of general commercial city and district agents and others soliciting traffic the employees of their offices and traveling agents and solicitors located on or off the line of the carrier's road

(b) City ticket and freight offices, separate from regular station ticket and freight offices shall be treated as outside agencies; the pay and expenses of the employees therein and the expenses of such offices shall be charged to this account

(c) Commissions for services pertaining to either freight or passenger business except commissions paid in lieu of salaries to carrier's agents located upon the carrier's own line (which shall be charged to account 373 Station employees) shall be included in this account

#### ITEMS OF EXPENSE

Books for office use  
Express charges  
Furniture repairs and renewals  
Heating lighting and power  
Membership fees and dues in agency associations  
Membership fees and dues in commercial clubs  
Office supplies  
Periodicals and newspapers  
Rent and repairs of offices  
Telegraph and telephone service  
Traveling expenses  
Water and ice

### 353 Advertising

This account shall include the cost of advertising for the purpose of securing traffic; pay of advertising agents their clerks and attendants; rent of offices and the office traveling and other expenses of such employees

#### ITEMS OF EXPENSE

Advertisements in newspapers  
Advertisements in periodicals  
Bulletin boards and cards  
Customs charges on advertising matter  
Distributing timetables  
Display and other advertising cards

Distributing folders  
Distributing general notices to shippers  
Express charges  
Frames handbills and posters  
Maps used for advertising  
Pamphlets photographs and views  
Publishing timetables  
Postage  
Publishing folders and advertising matter  
Publishing notices to shippers

NOTE: Advertising expenses of industrial and immigration bureaus shall be included in account 356 Industrial and immigration bureaus

### 354 Traffic Associations

This account shall include the cost to the carrier of participation in traffic associations including its proportion of the pay of officers and employees of such associations and of their office stationery and printing traveling and other expenses

#### LIST OF TRAFFIC ASSOCIATIONS

Boards of trade  
Classification bureaus  
Clergy bureaus  
Commercial associations  
Freight associations  
Ticket validating agencies

### 355 Fast Freight Lines

This account shall include the cost to the carrier of participation in fast freight or dispatch organizations, including its proportion of the pay of officers soliciting agents and employees of such organizations and their office stationery and printing traveling and other expenses

### 356 Industrial and Immigration Bureaus

This account shall include the cost to the carrier of industrial and immigration bureaus including the pay of industrial and immigration agents and exhibit agents their clerks and attendants and their office stationery and printing traveling and other expenses

### 357 Insurance

This account shall include premiums except reinsurance premiums, for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire accident or other cause

when such loss to the carrier would be chargeable to Traffic also premiums on fidelity bonds of employees whose pay is chargeable to Traffic

NOTE: The premiums paid by the carrier to its insurance fund shall be credited to an insurance reserve account, to which account the amount of all claims for injuries to persons and damages to the property covered by its insurance shall be charged To such account shall also be charged all reinsurance premiums paid to insurance companies and to it shall be credited all amounts recovered from insurance companies for damage to the property reinsured by them

### 358 Stationery and Printing

This account shall include the cost of stationery and printing used in connection with securing traffic including the cost of tariffs governing such traffic division sheets freight classifications, and rate sheets This account also shall include the cost of calculating machines typewriters and other office appliances which replace comparable items worn out consumed or for other cause are no longer in use

NOTE A: The cost of dictionaries periodicals, technical books etc shall be included in the appropriate superintendence accounts

NOTE B: The cost of stationery and printing used by traffic associations fast freight lines and industrial and immigration bureaus shall be included in the accounts provided for the expenses of such organizations

### 359 Employees Health and Welfare Benefits

This account shall include premiums on group and other insurance policies covering annuities and other benefits for employees or their beneficiaries contributions directly to employees health and welfare funds and salaries and other expenses incurred directly in conducting relief benefit and medical departments for the benefit of officers and employees engaged in procurement of traffic and other work in the traffic department

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457 Pensions

### 360 Other Expenses

This account shall include all expenses in connection with traffic not properly chargeable to other traffic accounts

### Transportation Expense Accounts

#### 370 Transportation; Rail Line.

The primary accounts included in this general account are designed to show expenses incurred for transporting persons and the property of others including the expenses of station train yard and terminal service; also the expense of transporting company material in transportation service trains

#### 371 Superintendence

This account shall include:

(a) *Pay of officers* The pay of officers directly in charge of or engaged in conducting transportation

##### LIST OF OFFICERS

Vice president  
Assistant to the vice president  
General manager; Assistant  
General superintendent of transportation  
Superintendent of transportation; Assistant  
Division superintendent; Assistant  
Superintendent of car service  
Chief special agent  
Members of examining boards  
Superintendent of mail service  
Traveling train and station inspectors  
Air brake instructor  
Superintendent of agencies  
Superintendent of transfer stations  
Trainmaster; Assistant  
Road foreman of locomotives  
Traveling locomotive engineer; Fireman

(b) *Pay of clerks and attendants*  
The pay of clerks and others employed in the offices and on business cars of officers whose pay is chargeable to this account

##### LIST OF EMPLOYEES

Division clerk other clerks and stenographers.  
Special agents and detectives  
Messengers cooks and porters

(c) *Office and other expenses* Office expenses and other expenses of officers and employees whose pay is chargeable to this account; also the pay and expenses of employees attending investigations concerning the cause of or responsibility for accidents and amounts paid detective agencies and others for work in connection with such investigations

##### ITEMS OF EXPENSE

Atlases and maps  
Barometers  
Books for office use  
Business car service  
Express charges  
Fees and dues in associations

Furniture repairs and renewals  
Heating lighting and power  
Official train service  
Periodicals and newspapers for business cars  
Rent of air brake instruction cars  
Rent and repairs of offices  
Telephone and telegraph service  
Traveling expenses  
Water and ice

Note A: When officers designated above have supervision over more than one department, their salaries the pay of their clerks and attendants and their office and other expenses shall be apportioned equitably among the departments over which they have jurisdiction

Note B: The cost of stationery purchased for transportation offices is chargeable to account 410 Stationery and printing

#### 372 Dispatching Trains

This account shall include the pay of chief and other train dispatchers their clerks copying operators and attendants and pay of operators on the line whose duties are confined to directing train movements; also the office traveling and other expenses of such employees

Note: Pay of operators who also perform station work shall be charged to account 373 Station employees

#### 373 Station Employees

This account shall include:

(a) *Agents clerks and attendants*  
The pay of agents and attendants, clerks and attendants in charge of or engaged in the operation of stations, stockyards wharves and piers located on the carrier's line; also payments to such station or ticket agents in lieu of salaries This account shall also include special payments to customs inspectors on account of opening and resealing cars under unusual conditions and payments to produce-exchange inspectors for inspecting measuring, and weighing grain

##### LIST OF GENERAL EMPLOYEES

Accountants  
Baggage agents and baggage men at stations  
Car and other clerks  
Cashiers  
Customs inspectors  
Depot masters; Assistant  
Detectives and policemen  
Express agents  
Information bureau employees  
Janitors porters maids and matrons  
Package and parcel room employees  
Station agents; Assistants  
Station foremen.  
Station masters; Assistants

Stockyard superintendents and foremen  
Telegraph and telephone operators  
Ticket agents

(b) *Labor at Stations* Station and other labor expended in handling freight mail baggage and express at stations wharves, and piers; in loading unloading feeding watering bedding shearing dipping, inspecting and otherwise caring for stock; in disinfecting stations, stockyards and stock pens; in transferring picking up, straightening, and reloading freight in the ordinary course of transportation; in miscellaneous station work including (when done by station employees) cleaning station grounds station platforms walks stockyards and stock pens and removing snow and ice therefrom; and in tending switch lamps not in yards and terminals This account shall also include payments to elevator companies (when not made as division of rate) for transferring grain en route, and payments to other companies and individuals for loading and unloading commercial freight under contract or otherwise

##### LIST OF EMPLOYEES

Car sealers and checkmen  
Freight callers and stationary engineers  
Freight loaders and stockyard laborers  
Freight loaders and weighmasters  
Longshoremen and warehousemen  
Stevedores

Note A: The cost of transferring freight, mail, baggage, and express on account of wrecks shall be included in account 415, Clearing wrecks

Note B: This account shall not include the pay of telegraph and telephone operators provided for under accounts 372 Dispatching trains and 407 Communication system operation or pay of employees provided for under account 375 Coal and ore wharves

#### 374 Weighing, Inspection, and Demurrage Bureaus

This account shall include the cost to the carrier of its participation in joint weighing inspection demurrage, and car distribution bureaus and associations

#### 375 Coal and Ore Wharves.

This account shall include cost of operating docks, and wharves piers, and other marine lake or river landings and the machinery located thereon

used in connection with the transportation of coal and ore

(a) *Labor and expenses* The pay and the office, traveling and other expenses of employees engaged in operating coal and ore wharves  
(b) *Tools and supplies.* The cost of all tools and supplies used in the operation of coal and ore wharves

##### ITEMS OF TOOLS AND SUPPLIES

Cylinder and lubricating oil  
Lanterns and parts  
Picks, shovels and  
Fuel for stationary  
boilers  
Waste; wicks  
Illuminating oil

Note: The cost of switching service in connection with coal and ore wharves shall not be included in this account

#### 376 Station Supplies and Expenses.

This account shall include:

(a) *Heating* The cost of fuel (including cost of unloading), water steam and miscellaneous supplies used for heating stations waiting rooms freight and passenger offices stockyards and other station buildings

(b) *Lighting* The cost of fuel water gas oil electricity lamp globes lamp chimneys wicks lamp carbons incandescent lamps and miscellaneous supplies used in lighting stations, waiting rooms freight and passenger offices stockyards other station buildings, street approaches thereto and passenger footbridges and subways at stations  
(c) *Other expenses* The cost of miscellaneous station supplies and station expenses including those for stockyards

##### ITEMS OF EXPENSE

Cleaning privy vaults  
Rent of station buildings (not jointly used)  
Furniture repairs and renewals  
Reports to agents of commercial standing  
Garage expenses  
Licenses for ticket agents  
Sprinkling station grounds  
Mail transfer by others than employees  
Station employees expenses.  
Membership fees and dues in agents' associations  
Supplies used in feeding watering, bedding shearing, dipping, inspecting, and otherwise caring for livestock  
Power for station machinery  
Rent of automatic weighing and recording devices  
Warehouse charges for storage of freight  
Rent of scales

consumed by locomotives and motor cars in work service shall be included in the cost of the work to which the service pertains

### 385 Water for Yard Locomotives

(a) This account shall include the cost of water supplied to locomotives in switching service in yards where regular switching service is maintained, and in terminal switching and transfer service including rent of ponds, lakes, other sources of water supply, and right of way for pipe lines; cost of water purchased expenses of work trains while engaged in hauling water for locomotive supply, and cost of testing water; also cost of labor expended and cost of materials and supplies used in the operation of water stations and purifying plants

(b) The cost of operating boilers, engines and pumps at water stations; heating and lighting water stations; breaking ice in water tanks thawing out tank spouts and water cars keeping fires in tanks and water cars to prevent freezing, shoveling snow into locomotive tanks; also temporary connections between water cars and locomotive tenders, compounds injected into locomotive boilers to decrease scale formation and other expenses directly incident to the supplying of water to such locomotives, shall be included in this account

(c) An equitable proportion of the pay and the office traveling and other expenses of superintendent of water service engaged in connection with water supply for locomotives shall be included in this account

NOTE: The cost of supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

### 386 Lubricants for Yard Locomotives

This account shall include the cost of valve engine car and other lubricating oils grease compounds and waste used for lubrication of locomotives in switching service in yards where regular switching service is maintained and in terminal switching and transfer service

NOTE: The cost of supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of service rendered

consumed by locomotives and motor cars in work service shall be included in the cost of the work to which the service pertains

### 383 Yard Switching Power Produced

This account shall include the cost of the production and distribution of electric power used in operating locomotives and cars in switching service in yards where regular switching service is maintained and in terminal switching and transfer service

(a) *Employees* The pay of employees engaged in operating electric-power stations and substations such as engineers, firemen, electricians, dynamo men, oilers, cleaners, and coal passers

(b) *Fuel* The cost of coal oil gas, and other fuel including the cost of labor unloading or stocking fuel

(c) *Water* The cost of water used to produce steam or to operate water plants including pumping, rent of ponds, streams, and pipe lines; also water tests boiler compounds and other like supplies and expenses

(d) *Other supplies and expenses* The cost of lubricants, such as oil and grease used in lubricating engines shafting dynamos and pumps; cost of waste carbon brushes, fuses lamps and other supplies; also the cost of heating and lighting power plants and other expenses not elsewhere specified in connection with operation of electric power plants

NOTE: The cost of supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains

### 384 Yard Switching Power Purchased

This account shall include the cost of electric power purchased for the propulsion of engines and cars in switching service in yards where regular switching service is maintained and in terminal switching and transfer service

NOTE: The cost of supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work

### LIST OF EMPLOYEES

Battery men. Switch oilers and Interlocker oilers. Tenders. Lampcleaners and Levermen signal men and tower men

### 380 Yard Enginemen

This account shall include the pay of yard enginemen while engaged in yards where regular switching service is maintained and terminal switching and transfer service, including pay of such employees while deadheading in connection with yard service. For purposes of this account enginemen shall be understood to include the operators and their assistants regardless of the type of self-propelled motive power being operated

NOTE: The pay of enginemen on locomotives engaged in more than one class of service shall be apportioned on the basis of service rendered. Pay of enginemen on train locomotives while engaged in train switching service shall be included in account 382. Train enginemen. The pay of enginemen on locomotives engaged in work service shall be included in the cost of the work to which the service pertains

### 382 Yard Switching Fuel

This account shall include the cost delivered on locomotives or motor cars of coal coke oil, wood and other fuels consumed in switching service in yards where regular switching service is maintained and in terminal switching and transfer service including a suitable proportion of the pay of fuel agents fuel inspectors fuel weighers and clerks engaged in accounting for fuel at fuel stations; pay of foremen and other fuel station employees; also a suitable proportion of the cost of tools such as wheelbarrows shovels scoops and picks used for handling fuel at such stations and the cost of operating machinery at fuel stations

NOTE A: The cost of repairs and renewals of coal chutes buggies pockets, air hoists mechanical hoists and mechanical conveyors at fuel stations shall be charged to account 233. Fuel stations

NOTE B: The cost of supplies consumed by locomotives and motor cars engaged in more than one class of service shall be apportioned upon the basis of service rendered. The cost of supplies consumed by train locomotives and motor cars in train switching service shall be included in accounts provided for train service. The cost of supplies

Tools and station supplies such as fans; uniforms punches for bag gagemen and gate-men, brooms brushes shovels and other supplies and tools for general station use Telephone and telegraph service rolling chairs for invalids medical supplies electric

### 377 Yardmasters and Yard Clerks

This account shall include the pay of general yardmaster yardmaster, assistant yardmaster, general yard foreman, and yard clerks and attendants in yards where regular switching service is maintained and in terminal switching and transfer service including employees engaged in calling yardmen and trainmen; also pay of policemen watchmen and detectives in yard service (See account 389. Yard supplies and expenses)

### 378 Yard Conductors and Brakemen.

This account shall include the pay of yard conductors or foremen and yard brakemen or switchmen handling cars in passenger and freight yards where regular switching service is maintained and in terminal switching and transfer service including pay while deadheading in connection with such service (See account 389. Yard supplies and expenses)

NOTE: When conductors and brakemen are engaged in both train and yard service their pay shall be apportioned between the train and yard accounts on the basis of service rendered. This does not apply to train switching service performed by train crews the entire pay of whom shall be charged to account 401. Trainmen

### 379 Yard Switch and Signal Tenders

This account shall include the pay of employees in yards where regular switching service is maintained who are engaged in the operation of yard switches and signals including interlockers used solely or principally for the government of all movements of locomotives and trains between main and yard tracks, movements of locomotives between yard tracks and enginehouses and yard switching movements (See account 389. Yard supplies and expenses)

supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

### 387 Other Supplies for Yard Locomotives

This account shall include the cost of supplies other than fuel, water and lubricants used on locomotives in switching service in yards where regular switching service is maintained and in terminal switching and transfer service including the cost of repairs and renewals of furniture tools and other movable articles required for use on locomotives in yard service. The account shall include the cost of sand and of material and supplies used in preparing and drying the sand for use such as the cost of fuel wheelbarrows shovels and sand screens.

**NOTE A:** Where the quantity of sand used on locomotives engaged in yard service is relatively small as compared with the quantity used by locomotives engaged in train service the entire cost of such material shall be included in account 389. Other supplies for train locomotives. Where the quantity used in yard service is relatively large the entire cost shall be included in this account.

**NOTE B:** The cost of other supplies consumed by locomotives engaged in more than one class of service shall be apportioned upon the basis of service rendered. The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

### 388 Enginehouse Expenses; Yard

This account shall include the expense of caring for and preparing locomotives for switching service in yards where regular switching service is maintained and in terminal switching and transfer service including a proportion of such expenses as are common to train yard switching and work service.

(a) *Enginehouse men.* The pay of enginehouse employees engaged in wiping, cleaning, watching and dispatching locomotives; keeping and preparing fires dumping ashes washing boilers cleaning fire boxes packing driving boxes and truck boxes; cleaning smokestacks air brake equipment and front ends of locomotives; checking locomotive tool equipment cleaning ash and cinder pits; operating turntables drying sand in-

specting smokestacks and ash pans; calling engine men and moving locomotives around engine yards when operated by hostlers; also a proportion of the pay of enginehouse foremen and their clerks.

(b) *Miscellaneous expenses.* The cost of tools, supplies, and sundry expenses on account of caring for and preparing locomotives at enginehouse.

#### ITEMS OF MISCELLANEOUS EXPENSES

Compounds for cleaning and polishing  
Enginehouse cupboards  
Gas, oil and electricity for lighting  
Heating enginehouses including offices  
Lanterns used by enginehouse men  
Lighting enginehouses including offices  
Lubricating oil for enginehouse ash pit transfer table and turntable machinery  
Packing tools  
Paint for front ends of locomotives  
Power for operation of turntables and transfer tables  
Rent of roundhouse stalls  
Signal lights on transfer tables and turntables  
Waste  
Water for cinder pits  
Water for washing boilers

**NOTE A:** Enginehouse expenses of locomotives in work service shall be included in the cost of the work to which the service pertains.

**NOTE B:** The pay of mechanics and laborers engaged in locomotive repair work in enginehouses shall be charged to the appropriate accounts for locomotive repairs.

### 389 Yard Supplies and Expenses

This account shall include the cost of supplies (except locomotive supplies) used in yard service yard signal and interlocker supplies and miscellaneous yard expenses for yards where regular switching service is maintained; also office and other expenses of employees whose pay is chargeable to accounts 377 378 and 379.

#### ITEMS OF EXPENSE

Electricity purchased for lighting yards and yard buildings  
Furniture repairs and renewals  
Gas purchased for lighting yards and yard buildings  
Power produced for operating switches and signals  
Power purchased for operating switches and signals  
Rent of telephones  
Rent of yard buildings (not jointly used)  
Yard supplies such as lubricants for machinery and switches fuel for heating and power and waste

### 390 Operating Joint Yards and Terminals—Dr.

This account shall include the carrier's proportion of the costs incurred by others in their operation of joint yards and terminals, including signals interlockers and other facilities at such joint yards and terminals.

**NOTE A:** The purpose of this account is to show the amounts accruing against the carrier for its proportion of the cost of operating yards and terminals operated by others, and in the joint use of which the carrier participates.

**NOTE B:** No portion of expenses chargeable by the operating carrier to accounts 382 to 403 inclusive shall be included in this account.

### 391 Operating Joint Yards and Terminals—Cr

This account shall include amounts chargeable to others as their proportions of the costs incurred by the carrier in the operation of joint yards and terminals including signals, interlockers and other facilities at such joint yards and terminals.

**NOTE A:** The purpose of this account is to show the amounts accruing in favor of the carrier and against others for their proportions of the cost of operating yards and terminals operated by the carrier and in the joint use of which others participate.

**NOTE B:** No portions of expenses chargeable by the operating carrier to accounts 382 to 403 inclusive shall be included in this account.

### 392 Train Enginemen

This account shall include the pay of enginemen while engaged in transportation train service or while deadheading in connection therewith and pay of such enginemen engaged in piloting trains over home lines; also the pay of employees while regularly engaged in shoveling coal forward on locomotive tenders. For purposes of this account enginemen shall be understood to include the operators and their assistants regardless of the type of self-propelled motive power being operated.

**NOTE:** The pay of enginemen on locomotives engaged in more than one class of service shall be apportioned on the basis of service rendered. Pay of enginemen on train locomotives while engaged in train switching service shall be included in this account. The pay of enginemen on locomotives engaged in work service shall be included in the cost of the work to which the service pertains.

### 394 Train Fuel

This account shall include the cost delivered on locomotives or motor cars of coal coke oil wood and other fuel for propulsion of trains in transportation train service including a suitable proportion of the pay of fuel agents fuel inspectors fuel weighers and clerks engaged in accounting for fuel at fuel stations; pay of foremen and other fuel station employees; also a suitable proportion of the cost of tools such as wheelbarrows shovels scoops and picks used for handling fuel at such stations and the cost of operating machinery at fuel stations.

**NOTE A:** The cost of repairs and renewals of coal chutes buggies pockets air hoists mechanical hoists and mechanical conveyors at fuel stations shall be charged to account 283, Fuel stations.

**NOTE B:** The entire cost of supplies consumed by train locomotives and motor cars in train switching service shall be included in the accounts provided for train service. The cost of supplies consumed by locomotives and motor cars in work service shall be included in the cost of the work to which the service pertains.

### 395 Train Power Produced

This account shall include the cost of producing and distributing electric power for the propulsion of electric locomotives and cars in transportation train service.

(a) *Employees.* The pay of employees engaged in operating electric-power stations and substations such as engineers firemen electricians dynamo men oilers, cleaners and coal passers.

(b) *Fuel.* The cost of the coal oil gas and other fuel, including the cost of labor unloading or stocking fuel.

(c) *Water.* The cost of water used to produce steam or to operate water plants including pumping rent of ponds streams and pipe lines; also water tests boiler compounds and other like supplies and expenses.

(d) *Other supplies and expenses.* The cost of lubricants such as oil and grease used in lubricating engines shafting dynamos, and pumps; cost of waste carbon brushes fuses, lamps and other supplies; also cost of heating and lighting power plants and other expenses not elsewhere specified in connection with operation of electric-power plants.

**NOTE:** The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies con-

waste used for lubrication of locomotives in transportation train service

**Note:** The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

**399 Other Supplies for Train Locomotives**

This account shall include the cost of supplies other than fuel, water, and lubricants including the cost of repairs and renewals of furniture, tools and other movable articles required for use on locomotives in transportation train service. The account shall include the cost of sand and of material and supplies used in preparing and drying the sand for use, such as the cost of fuel, wheelbarrows, shovels and sand screens.

**Note A:** Where the quantity of sand used on locomotives engaged in train service is relatively small as compared with the quantity used by locomotives engaged in yard service the entire cost of such material shall be included in account 387. Other supplies for yard locomotives where the quantity used in train service is relatively large the entire cost shall be included in this account.

**Note B:** The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

**400 Enginehouse Expenses; Train**

This account shall include the expense of caring for and preparing locomotives for transportation train service including a proportion of such expenses as are common to train yard switching and work service.

**(a) Enginehouse men** The pay of enginehouse employees engaged in wiping, cleaning, watching and dispatching locomotives; preparing and keeping fires, dumping ashes, washing boilers, cleaning fire boxes, packing driving boxes and truck boxes; cleaning smokestacks, air brake equipment and front ends of locomotives; checking locomotive tool equipment, cleaning ash and cinder pits; operating turntables, drying sand in inspecting smokestacks and ash pans; and moving locomotives around engine yards when operated by hostlers; also a proportion of the pay of enginehouse foremen and their clerks.

**(b) Train Power Purchased**

This account shall include the cost of electric power purchased for the propulsion of locomotives and cars in transportation train service.

**Note:** The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

**397 Water for Train Locomotives**

**(a)** This account shall include the cost of water supplied to locomotives in transportation train service including rent of ponds, lakes, other sources of water supply and right of way for pipe lines; cost of water purchased, expenses of supply trains while engaged in hauling water for locomotive supply, and cost of testing water; also cost of labor expended and cost of material and supplies used in the operation of water stations and purifying plants.

**(b)** The cost of operating boilers, engines and pumps at water stations heating and lighting water stations breaking ice in water tanks thawing out tank spouts and water cars keeping fires in tanks and water cars to prevent freezing, shoveling snow into locomotive tanks; also temporary connections between water cars and locomotive tenders, compounds injected into locomotive boilers to decrease scale formation and other expenses directly incident to the supplying of water to such locomotives shall be included in this account.

**(c)** An equitable proportion of the pay and the office traveling and other expenses of superintendent of water service engaged in connection with water supply for locomotives shall be included in this account.

**Note:** The entire cost of supplies consumed by train locomotives in train switching service shall be included in the accounts provided for train service. The supplies consumed by locomotives in work service shall be included in the cost of the work to which the service pertains.

**398 Lubricants for Train Locomotives**

This account shall include the cost of valve engine car and other lubricating oils, grease, compounds and

**(d) Miscellaneous expenses** The cost of tools and supplies and sundry expenses on account of caring for and preparing locomotives at enginehouses

**ITEMS OF MISCELLANEOUS EXPENSES**

Compounds for cleaning and polishing  
Gas oil and electricity for lighting  
Heating enginehouses including offices  
Lanterns used by enginehouse men  
Lighting enginehouses including offices  
Lubricating oil  
Packing tools  
Paint for front ends of locomotives  
Power for operation of turntables and transfer tables  
Rent of roundhouse stalls  
Signal lights on transfer tables and turn tables  
Waste  
Water for cinder pits  
Water for washing boilers

**Note A:** Enginehouse expenses of locomotives in work service shall be included in the cost of the work to which the service pertains.

**Note B:** The pay of mechanics and laborers engaged in locomotive repair work in enginehouses shall be charged to the appropriate accounts for locomotive repairs

**401 Trainmen**

This account shall include the pay of conductors; of train auditors, ticket collectors and others engaged in lifting or examining authorities for transportation; and of baggage men, brakemen, flagmen, train porters, train guards, train stenographers, maids and other train employees while engaged in transportation train service or while dead-heading in connection therewith; also the pay of trainmen while engaged in piloting trains over home lines.

**Note:** The pay of trainmen while engaged in work train service shall be included in the cost of the work to which the service pertains.

**402 Train Supplies and Expenses**

This account shall include miscellaneous expenses of transportation service, ice, trains and the cost of all supplies other than locomotive supplies.

**(a) Cleaning cars** The cost of cleaning and disinfecting passenger and freight cars in transportation train service including cost of removing from freight-train cars such refuse material as sawdust, hay and straw; also items of expense such as brooms and brushes, cleaning and polishing compounds, dis-

injecting machines, fuel for heating water and labor of employees

**(b) Heating cars** The cost of heating cars in transportation train service including cost of operating steam heating plants for car heating at stations and yards. Credits shall be made to this account for charges for heater service collected from other companies and individuals. The account shall also include items of expense such as connections between steam heating lines and cars, fuel, labor of employees, removal of ashes from car stoves and stoves temporarily in freight cars.

**(c) Lighting cars** The cost of lighting cars in transportation train service including the cost of operating plants for supplying gas or electricity for lighting purposes; also items of expense such as battery renewals, electricity and gas, lamp bulbs and labor of employees.

**Note:** Repairs of gas lighting and electric lighting plants shall be included in the proper maintenance accounts. Repairs and renewals of electric lighting equipment of cars, except supplies as above provided, shall be included in the appropriate car repair account.

**(d) Lubricating cars** The cost of lubricating cars in transportation train service, including cost of inspecting, repacking and oiling car journal boxes and air brake equipment; also items of expense such as labor of employees and oil, grease, other lubricants and supplies.

**(e) Icing and watering cars** The cost of icing and watering cars in transportation train service including icing cars for refrigeration purposes. Credits shall be made to this account for refrigeration charges collected from other companies and individuals. The account shall include items of expense such as hose and fixtures, ice, ice tools, labor of employees, salt and water.

**(f) Detouring trains** The compensation for temporary use of tracks of other carriers, including the cost of pilot service on account of wrecks, washouts, landslides, snow blockades and other defects of the tracks, bridges or tunnels on the carrier's line.

**(g) Train supplies** The cost of supplies furnished for use on cars in transportation train service such as brooms and brushes, chairs for cabooses (not permanently attached), conductors' punches, drinking cups and glasses, fuses, lanterns, medical boxes, oil for

lanterns shovels signal boxes torpedoes, waste  
(h) *Other expenses* The cost of miscellaneous supplies required to equip trains for transportation service and miscellaneous expenses incident to operation of such trains

#### ITEMS OF SERVICE AND SUPPLIES

Apparatus for testing the sight and hearing of enginemen and trainmen  
Employees reading and bunk room expense including pay of attendants and supplies furnished

Laundry work  
Physicians fees for examination of train employees  
Wages paid to superintendents and secretaries of reading rooms

#### OTHER ITEMS OF EXPENSE

Bedding for stock cars  
Boarding and slating box and stock cars for carrying coal coke and other freight  
Boards for flooring fruit cars  
Chains for securing loads  
Cleaning trimming and filling trainmen's lanterns and rear signal lamps  
Coupling and uncoupling cars at terminals  
Disinfecting cars  
Damage used in loading cars or fitting cars for freight shipments  
Feed for livestock in snowbound or other wise delayed trains  
Flowers and plants for cars  
Laundry for revenue service cars other than for dining and buffet service and sleeping car service

Occasional turning of engines on Y of other carriers  
Oil and other supplies for locomotives hauled as freight  
Periodicals for use of passengers on trains  
Planing cars for bullet shipments and other material

Provisions supplies or board for passengers in delayed trains

Removing advertisements from cars

Rent of fare registers in cars

Safety chains for use between twin and triple cars

Supplies for parlor and chair cars

Supplies furnished cars for the purpose of protection against accidents and fires

Temporary grain doors

Temporary lining of cars for freight ship ments and stoves and heaters to prevent freezing

Temporary openings in cars for freight ship ments

Temporary racking of cars for handling sugarcane corn bark or cordwood

Transferring passengers, express matter baggage mail and freight on account of de-

*Note:* The expenses of operating sleeping dining and buffet car features of train service shall be included in account 403 Operating sleeping cars or in account 441 Dining and buffet service as may be appropriate

#### 403 Operating Sleeping Cars

(a) This account shall include the cost of operating sleeping car service on trains

(1) *Superintendence* The pay of officers directly in charge of operating sleeping car service; the pay of their clerks and office attendants; also the office traveling and other expenses of such officers and employees

(2) *Station employees* The pay and expenses of local agents ticket agents cashiers clerks and attendants; also the office and other expenses of such employees

(3) *Station expenses* The expenses of fuel, water steam, and supplies used in heating station offices; gas oil electric current and other supplies for lighting; repairs and renewals of station furniture, and all other station expenses connected with sleeping car service when separable from the station expenses chargeable to account 376 Station supplies and expenses

(4) *Conductors* The pay of conductors employed on sleeping cars

(5) *Porters and maids* The pay of porters and maids employed on sleeping cars

(6) *Car supplies* The cost of miscellaneous supplies used on sleeping cars, such as combs, brushes brooms and toilet paper; also uniforms caps and service stripes for employees

(7) *Laundry* Expenses for laundry work such as laundering sheets pillowcases towels blankets etc

(8) *Other expenses* The cost of flowers and plants heating cars cleaning the interior of cars and of supplies used in interior cleaning, rent and cost of supplies for rooms furnished for sleeping car service employees and such other expenses in connection with the operation of sleeping cars as are not provided for elsewhere

(b) This account shall be charged with the deficits assumed by the carrier under a uniform service contract with The Pullman Company and shall be credited with the carrier's proportion of profits realized under that contract. It

to this account shall include the entire settlement made by the lessee except allowances for interest rental and depreciation and that the results of incidental operation of cars other than sleeping cars will not be excluded from the settlements to be recorded herein

*Note:* When officers have immediate supervision over sleeping car service and other operations their pay office and other expenses as also the pay office and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

#### 404 Signal and Interlocker Operation

This account shall include the cost of operating signals and interlockers other than those solely or principally used for governing all movements of locomotives and trains between main and yard tracks movements of locomotives between yard tracks and enginehouses and yard switching movements

(a) *Labor* The wages of employees engaged in operating signals and interlockers or power producing plants in connection therewith such as switch tenders signalmen other than telegraph operators lever men switch men lamp oilers battery men lamp men lamp cleaners and lamplighters; gatemen at crossings of other railroads engineers and others operating plants furnishing compressed air for signals and interlockers; engineers electricians and others operating plants furnishing electric power for signals and interlockers

(b) *Supplies* The cost of supplies used in operating signals and interlockers or in signal offices such as gasoline vitriol battery zincs battery coppers lubricating oils fuel for heating, fuel for power purposes produced and purchased power used in operating switches and signals furniture repairs and renewals water and light

*Note:* The cost of operating signals and interlockers solely or principally used for governing the movement of yard locomotives and trains shall be included in the appropriate yard expense accounts

#### 405 Crossing Protection

This account shall include the pay of street and highway crossing gatekeepers and flagmen the cost of supplies used by them the cost of lights at street and highway crossings not a part of the light-

cost of compressed air for operating gates

#### 406 Drawbridge Operation

This account shall include the cost of operating drawbridges

(a) *Labor* The wages of employees engaged in operating drawbridges such as bridge engineers tenders and watchmen

(b) *Supplies* The cost of produced and purchased power and of supplies such as fuel oil lantern water waste boats, stoves, chairs brooms and pails used in drawbridge operation.

#### 407 Communication System Operation

This account shall include the cost of operating communication systems not provided for elsewhere

##### TELEGRAPH

*Superintendence* The pay of superintendents censors their clerks and attendants

*Operators and messengers* The pay of operators block inspectors, and messengers in telegraph and relay offices other than those employed in dispatching trains and those located in general offices or at stations

*Other expenses* Office, traveling and inidental expenses including office rent, of employees whose pay is chargeable to this account; rent of telegraph conduits lines and poles; cost of battery renewals and supplies bicycles for messengers and electric current for telegraph purposes; also excess payments to telegraph companies when in connection with telegraph service and not provided for elsewhere

*Note A:* The pay rent other office expenses, and traveling expenses of officers their clerks and attendants who supervise or are engaged both in maintenance and operation shall be apportioned equally between this account and account 247 Communication systems

##### TELEPHONE

*Superintendence* The pay of superintendents their clerks and attendants

*Operators and messengers* The pay of operators and messengers in telephone offices other than those employed in dispatching trains and those located in general offices or at stations

*Other expenses.* Office, traveling and incidental expenses including office rent, of employees whose pay is chargeable to this account; rent of telephone conduits, lines, and poles; cost of battery renewals and supplies bicycles for messengers and electric current for telephone purposes; also excess payments to telephone companies when in connection with telephone service and not provided for elsewhere

*Note B:* The pay rent other office ex-

ment employees attending conferences with officers in connection with wage disputes  
Payments for switching on account of cars not passing inspection at junction points  
Penalties imposed under reciprocal demurrage laws for failure to furnish cars  
Penalty switching payments on account of improper delivery of cars to other carriers

412 Operating Joint Tracks and Facilities—Dr

This account shall include the carrier's proportion of the transportation expenses incurred by others in the operation of joint tracks interlockers and other facilities which are not provided for in account 390 Operating joint yards and terminals—Dr

NOTE A: The purpose of this account is to show the amount accruing against the carrier for its proportion of the cost of operating tracks and facilities (other than at joint yards and terminals) operated by others and in the joint use of which the carrier participates

NOTE B: No portion of expenses chargeable by the operating carrier to accounts 392 to 403 inclusive shall be included in this account

413 Operating Joint Tracks and Facilities—Cr

This account shall include amounts chargeable to others as their proportions of transportation expenses incurred by the carrier in the operation of joint tracks, interlockers and other facilities which are not provided for in account 391 Operating joint yards and terminals—Cr

NOTE A: The purpose of this account is to show the amounts accruing in favor of the carrier and against others for their proportions of the cost of operating tracks and facilities (other than at joint yards and terminals) operated by the carrier and in the joint use of which others participate

NOTE B: No portion of expenses chargeable by the operating carrier to accounts 392 to 403 inclusive shall be included in this account

414 Insurance

This account shall include premiums except reinsurance premiums for insuring the carrier against loss through injuries to persons or damage to or destruction or loss of property, whether caused by fire accident or other cause when such loss to the carrier would be chargeable to rail line transportation; also premiums on fidelity bonds of em-

ployees directly to employees health and welfare funds and salaries and other expenses incurred directly in conducting relief benefit, and medical departments for the benefit of officers and employees engaged in conducting transportation operations

NOTE: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457 Pensions

410 Stationery and Printing

This account shall include the cost of stationery and printing used in connection with rail line transportation including operation of floating equipment  
The account shall include cost of printed baggage and storage checks, bills of lading waybills postage and other stationery supplies and printing  
This account also shall include the cost of adding machines typewriters and other appliances which replace comparable items worn out consumed or for other cause are no longer in use

NOTE: The cost of dictionaries periodicals technical books etc shall be included in appropriate superintendence accounts and city directories and books of reference used by station agents shall be charged to account 376 Station supplies and expenses

411 Other Expenses

This account shall include all expenses in connection with rail line transportation not properly chargeable to other transportation accounts

ITEMS OF EXPENSE

Amounts paid for switching empty cars otherwise than in connection with loaded movements or with the repairs to the equipment  
Amounts paid on account of bills of lading issued on fraudulent receipts  
Amounts paid to suspended transportation department employees covering periods of suspension  
Compensation for property loss incident to failure to stop at station to pick up passengers  
Demurrage accruing on a foreign line by reason of error of carrier's agent  
Extra drayage due to agent's error in routing interline shipment  
Fees paid arbitrators in wage disputes of transportation department employees covered by insurance  
Loss of station funds by burglary when not covered by insurance  
Loss of train collections in holdup  
Overcharges paid foreign lines on account of error of the carrier's agent in routing and billing

penses of deck department employees; supplies other than fuel and lubricants furnished the engineer's department; water furnished to boats; incidental expenses of engineer's department employees; supplies (other than dining and buffet supplies) furnished to the steward's department; laundry for boats; and incidental expenses of steward's department employees

(f) Other expenses Expenses incident to the operation of floating equipment not otherwise provided for in this account

ITEMS OF EXPENSE

Customhouse fees  
License fees  
Pumping out boats laid up  
Raising sunken boats  
Transferring passengers in case of accidents  
Wharfage

(g) Elevation and longshore labor The cost of shore labor in connection with loading and unloading lighterage freight at wharves and piers such as labor of bridgemen at transfer bridges and of watchmen longshoremen stevedores and other wharfmén

(h) Elevation and shore expenses Shore expenses in connection with loading and unloading lighterage freight such as the cost of steam and electricity for power, heating and lighting; power and supplies used for transfer or float bridges; supplies used in connection with operating wharves and piers and not chargeable to account 376 Station supplies and expenses

NOTE A: When the compensation for the use of floating equipment used in water transfer service includes rent maintenance and operation the portion covering rent shall be charged to income account 539  
Rent for floating equipment the portion covering maintenance shall be charged to the appropriate account for maintenance of equipment and the portion covering operation shall be included in this account

NOTE B: This account shall not include the pay of station employees or labor engaged in handling freight at stations wharves and piers provided for under account 373  
Station employees or the pay of employees or labor provided for under account 375  
Coal and ore wharves

409 Employees Health and Welfare Benefits

This account shall include premiums on group and other insurance policies covering annuities and other benefits for

or are engaged both in maintenance and operation shall be apportioned equally between this account and account 247 Communication systems

RADIO RADAR AND INDUCTIVE TRAIN COMMUNICATION

Superintendence The pay of superintendents or others who supervise operation and their clerks or attendants

Operators The pay of operators other than those employed in dispatching trains and those located in general offices or at stations

Other expenses Office, traveling and incidental expenses including office rent of employees whose pay is chargeable to this account; rent of space or facilities occupied by radio radar, or inductive train equipment; cost of battery and tube renewals; cost of electric current purchased and all other costs incurred for operation and not provided for elsewhere

NOTE C: The pay rent other office expenses and traveling expenses of officers their clerks and attendants who supervise or are engaged both in maintenance and operation shall be apportioned equally between this account and account 247 Communication systems

408 Operating Floating Equipment

This account shall include the cost of operating floating equipment in water transfer (ferriage lighterage and floatage)

(a) Superintendence The pay of vice presidents and other officers directly in charge of or engaged in the operation of boats; the pay of their assistants clerks, and attendants; also the office traveling and other expenses of such officers and their employees

(b) Wages of crews The pay of captains pilots, chief officers, mates, sailors wireless telegraph operators and other employees of the deck department; engineers assistant engineers electricians oilers firemen, coal passers and all other employees of the engineer's department; and pursers porters and all other employees in the steward's department, except when engaged in dining and buffet service

(c) Fuel The cost on board boats (including the cost of trimming) of coal oil wood and other fuel used for generating power heat, or light

(d) Lubrication The cost of oil grease, tallow graphite, and other material furnished for lubricating purposes  
(e) Other supplies and departmental expenses The cost of supplies furnished

employees whose pay is chargeable to rail line transportation

**NOTE:** The premiums paid by the carrier to its insurance fund shall be credited to an insurance reserve account to which account shall be charged the amount of all claims for injuries to persons and damages to the property covered by its insurance. To such account shall also be charged all reinsurance premiums paid to insurance companies and to it shall be credited all amounts recovered from insurance companies for damage to property reinsured by them.

#### 415 Clearing Wrecks

This account shall include the cost of clearing wrecks other than wrecks of work trains

(a) **Labor** The wages of employees while engaged in connection with wrecking service loading and transferring contents of wrecked cars building temporary tracks around wrecks and removing such tracks

(b) **Train service** The cost of train service in connection with replacing wrecked equipment upon the tracks and transporting such equipment to shops for repairs including amounts paid to other companies for service of locomotives dericks and other equipment and for wages of crews in wrecking service

(c) **Other supplies and expenses** Payments for reloading or transferring freight express baggage and mail; transferring passengers and cost of provisions or board for men clearing up or watching at wrecks

**NOTE A:** Expenses of clearing wrecks of work trains shall be included in the cost of the work in connection with which the wrecked train was engaged

**NOTE B:** The cost of restoring roadbed and tracks to original condition after wrecks and the cost of repairing equipment damaged or destroyed by wrecks shall be charged to the appropriate accounts for maintenance of way and structures and maintenance of equipment

**NOTE C:** That proportion of payments to other companies for use of locomotives dericks and other equipment in wrecking service which represents rent shall be included in the income accounts

#### 416 Damage to Property

(a) This account shall include payments and expenses on account of damages to the property of others whether by fire collision flood or other

and expenses on account of damage to property intrusted to the carrier for transportation and for damage to stock on right of way. It shall include also fines or compensation paid for interference with the business of others as by detention of vessels at drawbridges or by blocking streets

(b) This account shall include also the pay office rent and office traveling, and other expenses of employees and others engaged as claim adjusters or as witnesses in lawsuits in connection with damage to property cases or engaged in detection of thieves; notarial fees paid in connection with such cases; and payments for or repairs of damage to equipment of other carriers or to property contained therein such carriers having trackage rights upon or grade crossings over the carrier's tracks

(c) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto except that it is not required to anticipate items which would not appreciably affect the account

**NOTE A:** Damage to livestock on right of way and damage to freight and baggage intrusted for transportation are provided for under accounts 417, Damage to livestock on right of way; 418, Loss and damage—Freight; and 419, Loss and damage—Baggage

**NOTE B:** Expenses incident to suits growing out of damage to property claims not otherwise provided for shall be included in account 454, Law expenses

**NOTE C:** The pay office rent and the traveling office and other expenses of claim adjusters claim clerks and others engaged in claim matters when not accurately as signable to a distinct class of claims shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450, General

#### 417 Damage to Livestock on Right of Way

(a) This account shall include payments on account of cattle and other livestock killed or injured while crossing or trespassing on the right of way including cost of removing and burying the same

(b) There shall be included in this account also the pay and the traveling

and others engaged as livestock claim adjusters or engaged as witnesses in law suits in connection with damage to livestock on right of way; also notarial fees in connection with claims for damage to livestock on right of way

(c) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto except that it is not required to anticipate items which would not appreciably affect the account

**NOTE A:** Expenses incident to suits growing out of livestock claims not otherwise provided for shall be included in account 454, Law expenses

**NOTE B:** The pay office rent and traveling office and other expenses of claim adjusters claim clerks and others engaged in claim matters when not accurately assignable to a distinct class of claims shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450, General

#### 418 Loss and Damage; Freight

(a) This account shall include payments and expenses on account of loss destruction damage or delays to revenue freight shipments including locomotives and cars transported as freight express matter milk shipments and livestock and expenses incurred on account of such payments; also expenses on account of loss destruction or damage to shipments of company material

(b) This account shall also include the cost of repacking and boxing damaged freight shipments; notarial fees in connection with freight claims; freight charges paid other carriers on lost destroyed or damaged shipments; pay traveling office, and other expenses of employees or others engaged as freight-claim adjusters as witnesses in lawsuits in connection with freight-claim cases in selling damaged and unclaimed shipments or in detecting thieves; rent of warehouses used for storage of damaged and astray freight shipments payments for storage of such shipments in public warehouses and interest and penalties assessed for nonpayment of freight claims

(c) Amounts received from the sale of astray and damaged freight shall be

(d) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto except that it is not required to anticipate items which would not appreciably affect the account

**NOTE A:** Expenses incident to suits growing out of loss and damage (freight) claims not otherwise provided for shall be included in account 454, Law expenses

**NOTE B:** The pay office rent and traveling office and other expenses of claim adjusters claim clerks and others engaged in claim matters when not accurately assignable to a distinct class of claims shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450, General

#### 419 Loss and Damage; Baggage

(a) This account shall include payments for loss destruction, damage or delays to baggage and other personal property carried as baggage and damage to personal apparel; also expenses on account of such loss or damage

(b) This account shall also include the cost of repacking and boxing damaged baggage; notarial fees in connection with baggage claims; baggage claim payments made to other carriers on lost destroyed damaged or delayed shipments; pay traveling office, and other expenses of employees or others engaged as baggage claim adjusters as witnesses in lawsuits in connection with baggage claim cases in selling damaged and unclaimed baggage, or in detecting thieves; rent of warehouses used exclusively for storage of damaged and unclaimed baggage payments for storage of such shipments in public warehouses and interest and penalties assessed for nonpayment of claims

(c) Amounts received from the sale of astray and damaged baggage shall be credited to this account

(d) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto except that it is not required to anticipate items which would not appreciably affect the account

**NOTE A:** Expenses incident to suits growing out of loss and damage (baggage) claims, not otherwise provided for shall be included in account 454, Law expenses

This account shall include the cost of operating hotels restaurants and lunch counters when the cost of the operated property is includible in the road and equipment accounts It shall include:

(a) *Superintendence* The pay of officers directly in charge of operating hotels, restaurants and lunch counters; pay of their clerks and office attendants; also the office traveling and other expenses of such officers

(b) *Employees* The pay of stewards hotelkeepers storekeepers, checkers linen clerks butchers chefs cooks kitchen help maids porters, elevators men call boys hat and cloak attendants waiters, waitresses laundresses engineers, firemen and other employees engaged in operating hotels restaurants and lunch counters.

(c) *Fuel and supplies* The cost of fuel for cooking and heating purposes; provisions such as meats groceries vegetables fish table waters ice etc; bar supplies such as wines, liquors beers ales etc; the cost of liquor licenses; the cost of tobacco cigars cigarettes etc; and miscellaneous supplies for operating the service

(d) *Stationery and printing* The cost of stationery and printing used in connection with the operation of hotels and restaurants

(e) *Other expenses* The cost of lighting and other items of expense not otherwise provided for in this account

NOTE: When officers have immediate supervision over hotels restaurants and lunch counters and other operations their pay office and other expenses as also the pay office and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

**440 Miscellaneous Operations**

The primary accounts included in this general account are designed to show the expenses incurred in miscellaneous operations

**441 Dining and Buffet Service**

This account shall include the cost of operating dining and buffet service on trains and transfer boats It shall include:

(a) *Superintendence* The pay of officers directly in charge of operating dining and buffet service; the pay of their assistants clerks and office attendants; also the office, traveling and other expenses of such officers and their employees

(b) *Commissarial employees* The pay of storekeepers assistant storekeepers clerks porters and other employees in commissarial supply depots and storehouses

(c) *Stewards* The pay of stewards or conductors employed on dining and buffet cars and transfer boats

(d) *Cooks and waiters* The pay of cooks waiters and assistants on dining and buffet cars and transfer boats

(e) *Fuel and supplies* The cost of fuel for cooking purposes; of provisions such as meats groceries vegetables fish table waters ice etc; bar supplies such as wines liquors beers ales etc; cost of licenses; and cost of cigars cigarettes and tobacco.

(f) *Laundry* Expenses for laundry work, such as laundering tablecloths napkins aprons etc

(g) *Stationery and printing* The cost of stationery and printing used in connection with dining and buffet service

(h) *Other expenses* The cost of flowers and plants; cleaning the interior of cars; rent and cost of supplies for rooms furnished for dining and buffet service employees; and such other expenses in connection with the operation of dining and buffet service as are not provided for elsewhere

NOTE: When officers have immediate supervision over dining and buffet service and other operations their pay office and other expenses as also the pay office, and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

**442 Artificial Limbs**

Carriage fees

Claim adjusters and clerks services

Claim adjusters office expenses

Compensation for injuries or death

Final judgments including plaintiffs court costs

Funeral expenses

Hospital attendance

Medical and surgical services

Medical and surgical supplies

Notarial fees

Nursing

Railway transportation

Undertakers services

Undertakers supplies

Witnesses fees and expenses at inquests and lawsuits

NOTE A: Expenses incident to personal injury suits not otherwise provided for shall be included in account 454 Law expenses

NOTE B: The pay office rent, and traveling office and other expenses of claim adjusters claim clerks and others engaged in claim matters when not accurately assignable to a distinct class of claims shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged This provision does not apply to the pay and expenses of general officers or general office employees whose pay is includible in general account 450 General

NOTE C: When a payment on account of injuries to persons includes allowances for damages to personal apparel the damage allowance shall be included in account 419 Loss and damage—Baggage when separate; otherwise the entire payment shall be included in this account

**443 Grain Elevators**

This account shall include the cost of operating grain elevators other than small elevators which are classed as station facilities It shall include:

(a) *Superintendence* The pay of officers directly in charge of grain-elevator service; the pay of their assistants clerks and office attendants; also the office traveling, and other expenses of such officers and their employees

(b) *Employees* The pay of engineers firemen foremen machine men oil-

ing, office and other expenses of claim adjusters claim clerks and others engaged in claim matters when not accurately assignable to a distinct class of claims shall be apportioned equally among the several classes of claims over which they have jurisdiction or in connection with which they are engaged. This provision does not apply to the pay and expenses of general officers or general office employees whose pay is in cludible in general account 450 "General"

NOTE C: When a payment on account of injuries to passengers includes allowance for damage to personal apparel the damage allowance shall be included in this account when separable; otherwise in the appropriate personal injury account

**420 Injuries to Persons**

(a) This account shall include expenses on account of injuries to persons which occur directly in connection with transportation service including damages for ejectment of passengers

(b) Services of employees and others called in consultation in relation to claim adjustments; and pay and expenses of employees while engaged as witnesses at inquests and lawsuits shall be included in this account

(c) This account shall also include amounts estimated to be sufficient to meet the probable liability of the carrier for unaudited expenses applicable thereto except that it is not required to anticipate items which would not appreciably affect the account

**444 Laundry**

Expenses for laundry work, such as laundering tablecloths napkins aprons etc

(g) *Stationery and printing* The cost of stationery and printing used in connection with dining and buffet service

(h) *Other expenses* The cost of flowers and plants; cleaning the interior of cars; rent and cost of supplies for rooms furnished for dining and buffet service employees; and such other expenses in connection with the operation of dining and buffet service as are not provided for elsewhere

NOTE: When officers have immediate supervision over dining and buffet service and other operations their pay office and other expenses as also the pay office, and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

**445**

Expenses for laundry work, such as laundering tablecloths napkins aprons etc

(g) *Stationery and printing* The cost of stationery and printing used in connection with dining and buffet service

(h) *Other expenses* The cost of flowers and plants; cleaning the interior of cars; rent and cost of supplies for rooms furnished for dining and buffet service employees; and such other expenses in connection with the operation of dining and buffet service as are not provided for elsewhere

NOTE: When officers have immediate supervision over dining and buffet service and other operations their pay office and other expenses as also the pay office, and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

**446**

Expenses for laundry work, such as laundering tablecloths napkins aprons etc

(g) *Stationery and printing* The cost of stationery and printing used in connection with dining and buffet service

(h) *Other expenses* The cost of flowers and plants; cleaning the interior of cars; rent and cost of supplies for rooms furnished for dining and buffet service employees; and such other expenses in connection with the operation of dining and buffet service as are not provided for elsewhere

NOTE: When officers have immediate supervision over dining and buffet service and other operations their pay office and other expenses as also the pay office, and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

**447**

Expenses for laundry work, such as laundering tablecloths napkins aprons etc

(g) *Stationery and printing* The cost of stationery and printing used in connection with dining and buffet service

(h) *Other expenses* The cost of flowers and plants; cleaning the interior of cars; rent and cost of supplies for rooms furnished for dining and buffet service employees; and such other expenses in connection with the operation of dining and buffet service as are not provided for elsewhere

NOTE: When officers have immediate supervision over dining and buffet service and other operations their pay office and other expenses as also the pay office, and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

**448**

Expenses for laundry work, such as laundering tablecloths napkins aprons etc

(g) *Stationery and printing* The cost of stationery and printing used in connection with dining and buffet service

(h) *Other expenses* The cost of flowers and plants; cleaning the interior of cars; rent and cost of supplies for rooms furnished for dining and buffet service employees; and such other expenses in connection with the operation of dining and buffet service as are not provided for elsewhere

NOTE: When officers have immediate supervision over dining and buffet service and other operations their pay office and other expenses as also the pay office, and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

**449**

Expenses for laundry work, such as laundering tablecloths napkins aprons etc

(g) *Stationery and printing* The cost of stationery and printing used in connection with dining and buffet service

(h) *Other expenses* The cost of flowers and plants; cleaning the interior of cars; rent and cost of supplies for rooms furnished for dining and buffet service employees; and such other expenses in connection with the operation of dining and buffet service as are not provided for elsewhere

NOTE: When officers have immediate supervision over dining and buffet service and other operations their pay office and other expenses as also the pay office, and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

employees engaged in miscellaneous operations

employees or their beneficiaries contributions directly to employees health and welfare funds and salaries and other expenses incurred directly in conducting relief benefit and medical departments for the benefit of officers and

Note: The total amount payable to trustees under pension plans and directly to retired employees for pensions is includible in account 457 Pensions

(e) *Stationery and printing* The cost of stationery and printing used in connection with producing power sold

(f) *Other expenses* The items of expense not otherwise provided for in this account

Note: When officers have immediate supervision over producing power sold and other operations their pay office and other expenses as also the pay office and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

#### 446 Other Miscellaneous Operations.

This account shall include the operations of facilities such as cold-storage plants; coal-storage plants; cotton-compress plants; wood-preserving plants; ice-supply plants etc when the cost of the facilities is includible in the road and equipment accounts and they are operated by the railway companies

Note: When officers have immediate supervision over other miscellaneous service and other operations their pay office and other expenses as also the pay office and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

#### 447 Operating Joint Miscellaneous Facilities—Dr

This account shall include the carrier's proportion of such costs as are incurred by others in their operation of joint facilities which are chargeable by them to accounts 442, Hotels and restaurants 443 Grain elevators, 445 Producing power sold or 446 Other miscellaneous operations

#### 448 Operating Joint Miscellaneous Facilities—Cr

This account shall include amounts chargeable to others as their proportions of such costs as are incurred by the carrier in its operation of joint facilities which are chargeable by it to accounts 442 Hotels and restaurants, 443 Grain elevators 445 Producing power sold or 446 Other miscellaneous operations

#### 449 Employees Health and Welfare Benefits

This account shall include premiums on group and other insurance policies

ers, millwrights carpenters trimmers welders spout men sweepers laborers watchmen and all other employees engaged in operating grain elevators

(c) *Fuel and supplies* The cost of fuel for power heating and lighting plants; power for heating lighting and operating machinery; and water ice, oil waste and other supplies for operating such property

(d) *Stationery and printing* The cost of stationery and printing used in connection with the operation of grain elevators

(e) *Other expenses* The cost of grain used to make up shortage in elevators; rent for and repairs of rented offices; and other operating expenses not otherwise provided for in this account

Note: When officers have immediate supervision over grain elevators and other operations their pay office and other expenses; also the pay office and other expenses of their assistants clerks and office attendants shall be equitably apportioned to the accounts appropriate to the operations over which they have supervision

#### 445 Producing Power Sold

This account shall include the cost of operating power plants substations transmission systems and distribution systems, for the production of power sold The proportion of the cost assignable to the production of the power sold only shall be included in this account This account shall include:

(a) *Superintendence* The pay of officers directly in charge of power plants substations transmission systems and distribution systems; pay of their clerks and office attendants; also the office traveling and other expenses of such officers and employees

(b) *Employees* The pay of foremen subforemen engineers firemen electricians system operators or load dispatchers dynamo tenders foremen regulators regulators and assistants switchboard men brush men oilers wipers wiremen, and others engaged in the operation of power plants and substation apparatus and devices

(c) *Fuel* The cost of fuel used in the production of power and for heating power plants

(d) *Other supplies* The cost of water, lubricants and other power plant and

expenses incurred directly in conducting relief benefit and medical departments for the benefit of officers and employees engaged in accounting law and other general administration

Commerce counsel  
Commerce agent  
Special counsel  
Attorney  
Counsel  
Law agent  
Clerks and office at tendants

ITEMS OF EXPENSE

Arbitrators services in settlement of disputed questions  
Cost of taking depositions and testimony  
Cost of suits  
Court bonds and court expenses  
Drawing and recording agreements as to trackage rights etc  
Express charges  
Fees and retainers of attorneys (not regular employees)  
Law books, forms, and reports  
Membership fees and dues in associations to protect carriers against litigation in respect to patents  
Membership fees and dues in law associations  
Notarial fees not provided for elsewhere  
Office expenses  
Printing of briefs testimony and reports  
Proportion of general office expenses  
Rent of offices  
Special fees  
Telegraph and telephone service  
Traveling expenses  
Witness fees not provided for elsewhere

457 Pensions

(a) This account shall include amounts payable for the current year to trustees under pension plans for pension costs computed on basis of employees services in the year and for pension costs computed on basis of credits for past services. This includes retired employees and former employees covered in such plans as well as employees now in service. The account shall also include the amount for which the carrier is liable to cover cost of pensions vested in employees who have qualified for pensions in advance of payment to trustees. This account shall include amounts payable for each year directly to retired employees or to their beneficiaries when no trust fund exists. Also in the case of an unfunded pension plan when an employee retires and is granted a pension the total present worth of the pension actuarially computed may be charged to this account provided this method of accounting for such expense is consistently followed.

(b) If the amount payable to the trustees for pensions for the current year is not paid before the accounts are closed, the item (estimated if necessary) shall be charged to this account and concurrently credited to account 759. Accrued accounts payable; or account 753. Audited accounts and wages payable. In case the amount is covered by audited voucher.

(c) The amounts to be charged to this account each year for costs of pensions including credits based upon prior services shall be in agreement as nearly as practicable, with deductions includible in the Federal income tax return for the year under pension plan adopted by the carrier for making payments to the trustees. When payments attributable to prior services made to trustees at the time the pension plan is adopted or subsequently are materially in excess of deductions includible in the tax return for the year such excess shall be in-

vision over more than one department, their salaries and expenses shall be apportioned equitably among the departments over which they have jurisdiction.

NOTE B: The pay and expenses of the purchasing agent assistant purchasing agent, general store keeper, division storekeeper, their clerks and attendants shall be charged through clearing accounts. Material store expenses and 'Stationery store' expenses, or material account 'Fuel' as may be appropriate.

452 Salaries and Expenses of Clerks and Attendants

This account shall include the pay and expenses of clerks and attendants of the officers whose salaries are includible in account 451. Salaries and expenses of general officers. The account shall include the traveling and other expenses of employees the cost of supplies for business cars and cost of running official trains for them.

453 General Office Supplies and Expenses

This account shall include the office expenses of officers designated in account 451. Salaries and expenses of general officers.

ITEMS OF EXPENSE

Alterations of partitions and fixtures in general offices  
Atlases, maps and books  
Cable tolls  
Cleaning  
Express charges  
Furniture repairs and renewals  
Heating and lighting  
Local messenger service  
Periodicals and newspapers  
Rent and repairs of general offices.  
Rent of tabulating machines.  
Reports of commercial standings  
Service of automobiles  
Telegraph and telephone service  
Watchmen service

NOTE: The proportion of general office expenses occasioned by the law department shall be included in account 454. Law expenses

454 Law Expenses

This account shall include the pay and the office and other expenses when not provided for elsewhere of officers and employees of the law departments of special law fees.

LIST OF OFFICERS AND EMPLOYEES

General counsel  
Assistant counsel  
General solicitor  
Solicitor

General Operating Expenses  
450 General

The primary accounts included in this general account are designed to show the expenses incurred of a general character not chargeable to the preceding general accounts such as those for general administration and accounting and those of the financial law, real estate tax valuation and claim departments.

NOTE: Directly assignable administration expenses incident to investments in leased or nonoperating physical property, and in stocks, bonds and other securities, are chargeable to income account 549. Maintenance of investment organization.

451 Salaries and Expenses of General Officers

This account shall include:  
(a) Salaries. The pay of all general officers and assistant general officers not otherwise provided for including salaries and fees of receivers and commissions paid to general officers in lieu of salaries.

LIST OF OFFICERS

Chairman of the board

President  
Assistant to president  
Vice president  
Assistant to vice president  
Secretary; Assistant  
Transfer agent  
Treasurer; Assistant  
Local treasurer  
Comptroller; Assistant  
General auditor; Assistant  
General accountant  
Auditor of revenues  
Auditor of passenger accounts; Assistant  
Auditor of freight accounts; Assistant  
Auditor of station accounts  
Auditor of disbursements; Assistant  
Auditor of miscellaneous accounts; Assistant  
Auditor of coal and coke accounts  
Freight claim agent; Assistant  
Real estate agent; Assistant  
Tax commissioner

(b) Expenses. The traveling and other expenses of officers whose pay is included in this account including supplies for business cars used by them cost of running official trains for them and cost of membership fees and dues in railway and other associations.

NOTE A: When officers duties are restricted to a single department their salaries and expenses shall be charged to that department in the accounts for superintendence or for law expenses as may be appropriate. When officers have immediate super

480 Accounts for Small Carriers, Class II  
See Instruction 1 Classification of Carriers The condensed groupings of accounts for Class II small carriers are as follows:

CONDENSED CLASSIFICATION OF OPERATING EXPENSES	
Accounts for Small Carriers—Class II	Accounts for Large Carriers—Class I
Maintenance of Way and Structures—	200 Maintenance of Way and Structures
2201 Superintendence—	201 Superintendence
2202 Roadway maintenance—	202 Roadway maintenance
2206 Tunnels and subways	206 Tunnels and subways
2208 Bridges trestles and culverts	208 Bridges trestles and culverts
2210 Elevated structures	210 Elevated structures
2212 Ties	212 Ties
2214 Rails	214 Rails
2216 Other track material	216 Other track material
2218 Ballast	218 Ballast
2220 Track laying and surfacing	220 Track laying and surfacing
2221 Fences snowsheds and signs	221 Fences snowsheds and signs
2247 Communication systems	247 Communication systems
2249 Signals and interlockers	249 Signals and interlockers
2272 Removing snow ice and sand	272 Removing snow ice and sand
2277 Station and office buildings	277 Station and office buildings
2279 Roadway buildings	279 Roadway buildings
231 Water stations	231 Water stations
233 Fuel stations	233 Fuel stations
235 Shops and enginehouses	235 Shops and enginehouses
237 Grain elevators	237 Grain elevators
239 Storage warehouses	239 Storage warehouses
241 Wharves and docks	241 Wharves and docks
243 Coal and ore wharves	243 Coal and ore wharves
253 Power plants	253 Power plants
257. Power-transmission systems	257. Power-transmission systems
265 Miscellaneous structures	265 Miscellaneous structures
266 Retirements—Road	266 Retirements—Road
270 Dismantling retired road property	270 Dismantling retired road property
280 Equalization—Way and structures	280 Equalization—Way and structures
286 Road property—Depreciation	286 Road property—Depreciation
289 Roadway machines	289 Roadway machines
271 Small tools and supplies	271 Small tools and supplies
273 Public improvements—Maintenance	273 Public improvements—Maintenance
274 Injuries to persons	274 Injuries to persons
275 Insurance	275 Insurance
276 Stationery and printing	276 Stationery and printing
277 Employees health and welfare benefits	277 Employees health and welfare benefits
281 Right of way expenses	281 Right of way expenses
282 Other expenses	282 Other expenses
278 Maintaining joint tracks yards and other facilities—Dr	278 Maintaining joint tracks yards and other facilities—Dr
279 Maintaining joint tracks yards and other facilities—Cr	279 Maintaining joint tracks yards and other facilities—Cr
300 Maintenance of Equipment	300 Maintenance of Equipment
301 Superintendence	301 Superintendence
302 Shop machinery	302 Shop machinery
304 Power plant machinery	304 Power plant machinery
305 Shop and power plant machinery—Depreciation	305 Shop and power plant machinery—Depreciation
306 Dismantling retired shop and power plant machinery	306 Dismantling retired shop and power plant machinery
308 Steam locomotives—Repairs	308 Steam locomotives—Repairs
311 Other locomotives—Repairs	311 Other locomotives—Repairs
314 Freight train cars—Repairs	314 Freight train cars—Repairs
317 Passenger train cars—Repairs	317 Passenger train cars—Repairs

which replace comparable items worn out consumed or for other cause are no longer in use

NOTE A: The cost of printing briefs legal forms, testimony, reports etc for the law department is chargeable to account 454 Law expenses

NOTE B: The cost of printing bonds etc. in connection with the carrier's funded debt shall be included in balance sheet account 742 Unamortized discount on long term debt

460 Other Expenses

This account shall include incidental general expenses which are not properly chargeable to any of the foregoing accounts

ITEMS OF EXPENSE

Cost of draping buildings  
Cost of publishing annual reports in news papers and other corporate and financial notices of general character.

Cost of publishing notices of stockholders meetings and of election of directors Exchange (other than foreign exchange) on checks cashed or deposited and on drafts bought

Fees and expenses paid to directors and trustees

Loss through payment of wages to a wrong person

Penalties assessed for nonpayment of claims for overcharges

461 General Joint Facilities—Dr

This account shall include the carrier's proportions of general expenses incurred by others incident to maintaining and operating tracks yards terminals and other facilities used jointly

NOTE: The purpose of this account is to show the amount accruing against the carrier for its proportion of the expense of general administration of tracks yards terminals and other facilities administered by others and in the joint use of which the carrier participates

462 General Joint Facilities—Cr

This account shall include amounts chargeable to others as their proportions of general expenses incurred by the carrier incident to maintaining and operating tracks yards terminals and other facilities used jointly

NOTE: The purpose of this account is to show the amounts accruing in favor of the carrier and against others for their proportions of the expense of general administration of tracks yards terminals and other facilities administered by the carrier, and in the joint use of which others participate

cluded in account 743 Other deferred charges, and cleared thereafter to account 457 in the years in which deductions are includible in tax returns (See Note B)

(d) Carriers shall maintain a complete record of payments to trustees for pensions and shall be prepared to furnish to the Commission full information of the plan under which it has created a pension fund and a copy of the declaration of trust and resolution under which the pension plan is established

NOTE A: Premiums on group and other insurance policies and also other costs of employees health and welfare benefits (but not including pensions) are includible in the separate primary accounts under the general accounts for maintenance traffic transportation miscellaneous operations and general expenses, as may be appropriate according to distribution of the pay of the employees covered by the contracts (See Instruction 1-9)

NOTE B: Reserves heretofore authorized and recorded in the accounts as of the effective date of this system of accounts for pension costs not funded, may be retained unless otherwise directed by the Commission Also payments heretofore made to trustees and charged off against income or retained income are not to be reversed unless otherwise directed or authorized by the Commission

NOTE C: In the case of an existing pension plan if the carrier should desire to conform its accounting to the full accrual basis of accounting application to do so may be made to the Commission for consideration and such accounting shall not be performed unless approved by the Commission Full accrual basis as used herein means recording in the accounts now and hereafter costs of employees pensions accrued including credits for past services upon the basis of actuarial computations even though the sum has not been funded by payment to the trustees Applications for such accounting shall show the method of computation to be used together with the carrier's proposal for recording in the accounts the related income tax credits to be realized in subsequent years

458 Stationery and Printing

This account shall include the cost of postage and of stationery and printing used in general offices and not chargeable to other accounts including the cost of printing annual reports contracts leases stock certificates and passes This account also shall include the cost of adding and calculating machines typewriters and other office appliances

## Accounts for Large Carriers—Class I

22227	Other equipment repairs	323 Floating equipment—Repairs	2252 Injuries to persons	420 Injuries to persons
22228	Dismantling retired equipment	326 Work equipment—Repairs	2253 Loss and damage	418 Loss and damage—Freight
22229	Retirements—Equipment	328 Miscellaneous equipment—Repairs		419 Loss and damage—Baggage
22230	Equalization—Equipment	329 Dismantling retired equipment		414 Insurance
22231	Equipment—Depreciation	330 Retirements—Equipment	2254 Other casualty expenses	415 Clearing wrecks
22232		331 Equipment—Depreciation		416 Damage to property
22233	Other equipment expenses	332 Injuries to persons		417 Damage to livestock on right of way
22234		333 Insurance		404 Signal and interlocker operations
22235		334 Stationery and printing		405 Crossing protection
22236	Joint maintenance of equipment expenses—Dr	335 Employees health and welfare benefits	2255 Other rail transportation expenses	406 Drawbridge operation
22237	Joint maintenance of equipment expenses—Cr	339 Other expenses		407 Communication system operation
22238		336 Joint maintenance of equipment expenses—Dr		408 Operating floating equipment
22239		337 Joint maintenance of equipment expenses—Cr	2256 Operating joint tracks and facilities—Dr	409 Employees health and welfare benefits
22240	Traffic expenses	350 Traffic	2257 Operating joint tracks and facilities—Cr	410 Stationery and printing
22241		351 Superintendence		411 Other expenses
22242		352 Outside agencies	Miscellaneous Operations	412 Operating joint tracks and facilities—Dr
22243		353 Advertising		413 Operating joint tracks and facilities—Cr
22244		354 Traffic associations		440 Miscellaneous Operations
22245		355 Fast freight lines	2258 Miscellaneous operations	441 Dining and buffet service
22246		356 Industrial and immigration bureaus		442 Hotels and restaurants
22247		357 Insurance		443 Grain elevators
22248		358 Stationery and printing	2259 Operating joint miscellaneous facilities—Dr	445 Producing power sold
22249		359 Employees health and welfare benefits		446 Other miscellaneous operations
22250		360 Other expenses	2260 Operating joint miscellaneous facilities—Cr	449 Employees health and welfare benefits
22251		370 Transportation—Rail Line		447 Operating joint miscellaneous facilities—Dr
22252		371 Superintendence		448 Operating joint miscellaneous facilities—Cr
22253		372 Dispatching trains	2261 Administration	450 General
22254		373 Station employees		451 Salaries and expenses of general officers and attendants
22255		374 Weighing inspection and demurrage bureaus		452 Salaries and expenses of clerks and attendants
22256		375 Coal and ore wharves	2262 Insurance	453 General office supplies and expenses
22257		376 Station supplies and expenses		454 Law expenses
22258		377 Yardmasters and yard clerks	2263 Other general expenses	455 Insurance
22259		378 Yard conductors and brakemen		456 Employees health and welfare benefits
22260		379 Yard switch and signal tenders	2264 Other general expenses	457 Pensions
22261		380 Yard enginemen		458 Stationery and printing
22262		382 Yard switching fuel	2265 General joint facilities—Dr	460 Other expenses
22263		383 Yard switching power produced	2266 General joint facilities—Cr	461 General joint facilities—Dr
22264		384 Yard switching power purchased		462 General joint facilities—Cr
22265		385 Water for yard locomotives		
22266		386 Lubricants for yard locomotives		
22267		387 Other supplies for yard locomotives		
22268		388 Enginehouse expenses—Yard		
22269		389 Yard supplies and expenses		
22270		390 Operating joint yards and terminals—Dr		
22271		391 Operating joint yards and terminals—Cr		
22272		392 Train enginemen		
22273		401 Trainmen		
22274		394 Train fuel		
22275		395 Train power produced		
22276		396 Train power purchased		
22277		397 Water for train locomotives		
22278		398 Lubricants for train locomotives		
22279		399 Other supplies for train locomotives		
22280		400 Enginehouse expenses—Train		
22281		402 Train supplies and expenses		
22282		403 Operating sleeping cars		

## INCOME ACCOUNTS

### 501 Railway Operating Revenues

This account shall include the total revenues derived from operations as shown in the primary revenue accounts provided elsewhere in these regulations

### 502 Revenues from Miscellaneous Operations

This account shall include the total revenues derived from the operation of miscellaneous operating physical property such as that the cost of which is includible in balance-sheet account 737 Miscellaneous physical property

NOTE: The income from miscellaneous nonoperating physical property shall be included in account 511 Income from non operating property

### 503 Hire of Freight Cars; Credit Balance

This account shall include except as provided in the texts of accounts 509 Income from lease of road and equipment and 542, Rent for leased roads and equipment, the net credit balance of (a) amounts receivable accrued for the use of the accounting company's freight cars leased or interchanged and (b) amounts payable accrued for the use of the freight cars of others leased or interchanged

NOTE A: If the net balance is a debit it shall be included in account 536 Hire of freight cars—Debit balance

NOTE B: Rent for freight cars included in the lease of road to another company shall be included in account 509 Income from lease of road and equipment

NOTE C: Rents paid for freight cars used in construction work train service are chargeable to the cost of the work

### 504 Rent from Locomotives

This account shall include except as provided in the text of account 509 Income from lease of road and equipment, amounts receivable accrued as rent for the use of the accounting company's locomotives leased or interchanged

NOTE: Rent for locomotives included in lease of road to another company shall be included in account 509 Income from lease of road and equipment

### 505 Rent from Passenger Train Cars

This account shall include except as provided in the text of account 509 In-

come from lease of road and equipment amounts receivable accrued as rent for the use of the accounting company's passenger-train cars leased or interchanged

NOTE: Rent for passenger train cars in lease of road to another company shall be included in account 509 Income from lease of road and equipment

### 506 Rent from Floating Equipment

This account shall include except as provided in the text of account 509 Income from lease of road and equipment, amounts receivable accrued as rent for the use of the accounting company's floating equipment leased or chartered

NOTE: Rent from floating equipment included in lease of road to another company shall be included in account 509 Income from lease of road and equipment

### 507 Rent from Work Equipment

This account shall include except as provided in the text of account 509 Income from lease of road and equipment, amounts receivable accrued as rent for the use of the accounting company's work equipment leased or interchanged

NOTE: Rent for work equipment included in lease of road to another company shall be included in account 509 Income from lease of road and equipment

### 508 Joint Facility Rent Income

(a) This account shall include amounts receivable accrued for rent of equipment, tracks yards terminals and other facilities owned or controlled by the accounting company and used jointly with other companies or individuals

(b) Amounts receivable from other companies in reimbursement for taxes on property jointly used shall be credited to this account

NOTE: The portion of the cost of maintenance operation or administration of joint facilities recoverable from others shall be credited to the various joint facility accounts provided for operating expenses When the compensation for the use of joint facilities is a fixed amount or is based upon a charge per passenger ton car or other unit it shall be fairly apportioned by the creditor between this account and the appropriate joint facility operating expense accounts

### 509 Income from Lease of Road and Equipment

(a) This account shall include the entire amount receivable accrued for the exclusive use of road, tracks or bridges (including equipment or other railway property covered by the contract) the rented property being owned or controlled by the accounting company whether payable to the accounting company in cash or disbursed by the lessee on behalf of the accounting company as interest on funded debt guaranteed dividends on stock or otherwise

(b) When the lessor company maintains the road and equipment leased the cost of maintaining the property rented shall be charged to this account except that when the rent thus receivable for the use of property other than equipment is relatively small and the expense of maintenance is not separable the entire amount received may be credited to revenue account 142, Rents of buildings and other property

(c) If under the terms of a lease, the deficit or any portion of it resulting from the lessee company's operations of the property leased is payable by the lessor company the amount thus payable shall be charged to this account by the lessor

NOTE A: When taxes on leased property are assumed by the lessor the accruals of such taxes shall be included in the lessor's account 532, Railway tax accruals

NOTE B: If property the rent of which is chargeable to account 542 Rent for leased roads and equipment is sublet by the accounting company the rent receivable there for shall be credited to this account

NOTE C: When specific charges against the lessee are made by the lessor for repairs of equipment which is actually maintained by it the amount of such charges shall be appropriately credited by the lessor to its equipment repair accounts and charged by the lessee to the corresponding accounts

### 510 Miscellaneous Rent Income

(a) This account shall include such rents of property owned and controlled by the accounting carrier as are not provided for in the foregoing accounts

(b) This account shall be charged with the cost of maintenance of the property rented also specific incidental expenses in connection with such property, such as the cost of negotiating contracts advertising for tenants fees paid conveyancers collectors commissions and analogous items

NOTE A: If property the rent of which is chargeable to account 543 Miscellaneous rents is sublet by the accounting company, the rent receivable therefor shall be credited to this account

NOTE B: Taxes on property the rent of which is creditable to this account shall be charged to account 532 Railway tax accruals

NOTE C: The rent from property carried in balance sheet account 737 Miscellaneous physical property, shall not be included in this account but in account 511 Income from nonoperating property

NOTE D: Rent and other income from real estate acquired for new lines or for additions and betterments shall be credited to the appropriate road and equipment accounts until the completion or coming into service of the property

### 511 Income from Nonoperating Property

This account shall include the net credit balance of the nonoperating revenues or income from and the expenses including depreciation (but excluding taxes) of physical property the cost of which is carried in balance-sheet account 737 Miscellaneous physical property

NOTE A: Net debit balances in this account shall be so indicated

NOTE B: The revenues from the operation of miscellaneous operating physical property shall be included in income account 502 Revenues from miscellaneous operations and the expenses of operation shall be included in account 534 Expenses of miscellaneous operations

### 512 Separately Operated Properties; Profit

(a) This account shall include amounts receivable under the terms of agreements or contracts whereby the surplus resulting from the operation by others of properties of other companies having a separate corporate existence is to be paid in whole or in part to the accounting company

(b) In determining the amount receivable by the accounting company consideration shall be given not only to the operating revenues and operating expenses but also to other items of income or deduction which affect that amount

NOTE A: The amount payable by the operating company shall be charged by it to account 550 Income transferred to other companies

NOTE B: Dividends or other returns upon securities issued by separately operated companies and held or controlled by the

or outstanding; gross or net earnings dividends declared; number of passengers carried; quantity of freight transported; length of line operated or owned; rolling stock operated or owned or other basis; also taxes for issuing and recording mortgages and trust deeds and for issuing bonds or other evidences of long-term debt.

(b) The taxes on leased property shall be included in this account by the carrier obligated to assume such expenses under the terms of the lease.

(c) Accruals for Federal income taxes shall be included in this account except that the tax consequences of the items recorded directly in retained income accounts shall be included in account 617.

Federal income taxes assigned to retained income. Details pertaining to the tax consequences of other unusual and significant items excluded from income accounts and also cases where tax consequences are disproportionate to the related amounts included in income accounts shall be submitted to the Commission for consideration and decision as to the proper accounting for the tax consequences.

(d) Federal income taxes paid in prior years which are refundable as the result of carry-back of operating loss shall be credited to this account in the year in which the loss occurs. The reduction in taxes due to operating losses carried forward shall be credited to this account in the year in which such losses are applied to reduce taxes except as otherwise provided in account 606. Other credits to retained income.

NOTE A: Taxes on leased property paid by one party to the lease and chargeable to the other party to the lease shall be charged directly to the party bearing the expense and not included in the income account of the party first making payment.

NOTE B: Taxes on other than railway property operations and privileges shall be charged to account 535. Taxes on miscellaneous operations property or 544. Miscellaneous tax accruals as may be appropriate.

NOTE C: Special assessments for street and other improvements and special benefit taxes such as water taxes and the like shall be included in operating expense accounts or investment accounts as may be appropriate.

NOTE D: Amounts received in reimbursement of taxes on property jointly owned shall be credited to account 508. Joint facility rent income. Amounts paid in reimbursement of such taxes shall be charged to account 541. Joint facility rents.

other companies or individuals representing the whole or a part of the net deficit of the accounting company when under the terms of agreements or contracts no obligation for subsequent reimbursement is incurred.

(b) In determining the amount receivable by the accounting company consideration shall be given not only to the operating revenues and operating expenses, but also to other items of income or deduction which affect that amount.

NOTE: The amount payable shall be charged by the contributing company to account 545. Separately operated proper ties—Loss.

#### 519 Miscellaneous Income

(a) This account shall include all items not provided for elsewhere, properly creditable to income accounts during the current year. Among the items which shall be included in this account are:

Cancellation of balance sheet accounts representing unclaimed wages and vouchered accounts written off because of carrier's inability to locate the creditor.

Profit from sale of securities carried as temporary cash investments.

Profit from sale of land used for transportation purposes of noncarrier property, and of securities acquired for investment purposes.

Profit from company bonds reacquired.

(b) When the profit from sale of land noncarrier property or investment securities other than temporary cash investments or from the reacquisition of the company's own bonds, is so material in amount that its inclusion in income account would distort and impair the significance of net income for the year such profit shall be credited to the appropriate retained income account.

#### 531 Railway Operating Expenses

This account shall include the total expenses caused by operations as shown in the primary expense accounts provided in these regulations.

#### 532 Railway Tax Accruals

(a) This account shall include accruals for taxes of all kinds relating to railway property (including floating equipment, if any), operations and privileges whether based upon the valuation of the property amount of stocks and bonds or other evidences of debt issued

requisite to extinguish, during the interval between the date of acquisition and the date of maturity the discount or premium on securities of other companies owned (other than short-term notes). Amounts thus credited or charged shall be concurrently charged or credited to the account in which the cost of the securities is carried. The discount on short-term notes shall be distributed through equal monthly credits over the terms of the notes.

NOTE A: This account shall not include interest on securities issued or assumed by the accounting company and owned by it whether pledged as collateral or held in its treasury in special deposits, or in sinking or other reserve funds.

NOTE B: Interest on securities other than those of the accounting company and on other assets held in sinking or other reserve funds shall be included in account 516. Income from sinking and other reserve funds.

NOTE C: Discount on bills for material purchased shall be credited to the accounts to which is charged the cost of the material with respect to which the discount is allowed.

#### 516 Income from Sinking and Other Reserve Funds

(a) This account shall include the income accrued on cash securities and other assets (not including securities issued or assumed by the accounting company) held in sinking and other reserve funds. (See Note C to account 708. Interest and dividends receivable.)

(b) At the option of the accounting company there may be included each year in this account the portion, applicable to the fiscal period, of the amount requisite to extinguish during the interval between the date of acquisition and the date of maturity, the discount or premium on funded securities held in sinking or other reserve funds. Amounts thus credited or charged shall be concurrently charged or credited to the account in which the cost of the securities is carried.

#### 517 Release of Premiums on Funded Debt.

This account shall include during each fiscal period such proportion of the premiums on outstanding funded debt as may be applicable to the period. (See instruction 6-3.)

#### 518 Contributions from Other Companies

(a) This account shall include amounts received or receivable from

accounting company, shall be included in accounts 513. Dividend income. 514. Interest income or 516. Income from sinking and other reserve funds as may be appropriate.

#### 513 Dividend Income

(a) This account shall include dividends declared on railway and other stocks the income from which is the property of the accounting company whether such stocks are owned by the accounting company and held in its treasury or deposited in trust or are controlled through lease or otherwise.

(b) Dividends declared shall not be credited prior to actual collection unless their payment is reasonably assured by past experience guaranty, anticipated provision or otherwise. (See Note C to account 708. Interest and dividends receivable.)

(c) Accruals of guaranteed dividends may be included in this account if their payment is reasonably assured.

NOTE A: This account shall not include credits for dividends on stocks issued or assumed by the accounting company and owned by it, whether pledged as collateral or held in its treasury, in special deposits, or in sinking or other reserve funds.

NOTE B: Dividends on stocks of other companies held in sinking or other reserve funds shall be credited to account 516. Income from sinking and other reserve funds.

#### 514 Interest Income

(a) This account shall include the interest on securities and debenture stock of other companies the income from which is the property of the accounting company whether such securities are owned by the accounting company and held in its treasury or deposited in trust or are controlled through lease or otherwise.

(b) The account shall also include interest on notes and other evidences of indebtedness and interest on bank balances, open accounts and other analogous items including discount on short-term notes. Interest accrued shall not be credited prior to actual collection unless its payment is reasonably assured by past experience, guaranty anticipated provision or otherwise. (See Note C to account 708. Interest and dividends receivable.)

(c) At the option of the accounting company there may be included each year in this account the portion applicable to the fiscal period of the amount

**NOTE E:** Taxes accruing on new lines under construction or on property acquired for the extension of existing lines or for addition or betterment purposes before the facilities are opened for commercial operation or the property acquired becomes available for service shall be charged to road and equipment accounts

### 534 Expenses of Miscellaneous Operations

This account shall include the total expenses caused by the operation of miscellaneous physical property the cost of which is includible in balance-sheet account 737 Miscellaneous physical property

**NOTE:** The expenses of miscellaneous non operating physical property shall be included in account 511 Income from nonoperating property

### 535 Taxes on Miscellaneous Operating Property

This account shall include accruals of taxes paid or payable upon miscellaneous operating property, such as that the cost of which is includible in account 737 Miscellaneous physical property

**NOTE:** Taxes upon miscellaneous nonoperating physical property shall be included in account 544 Miscellaneous tax accruals

### 536 Hire of Freight Cars; Debit Balance

This account shall include except as provided for in the classification for investment in road and equipment and in the texts of accounts 509 "Income from lease of road and equipment" and 542, "Rent for leased roads and equipment," the net debit balance of (a) amounts receivable accrued for the use of the accounting company's freight cars leased or interchanged and (b) amounts payable accrued for the use of the freight cars of others leased or interchanged

**NOTE A:** If the net balance is a credit it shall be included in account 503 Hire of freight cars—Credit balance

**NOTE B:** Rent for freight cars included in the lease of road to the accounting company shall be included in account 542 Rent for leased roads and equipment

**NOTE C:** Interest accrued on equipment obligations shall be charged to account 546 Interest on funded debt

**NOTE D:** Rents paid for freight cars used in construction work train service are chargeable to the cost of the work

### 537 Rent for Locomotives

This account shall include amounts payable accrued for the use of the locomotives of others leased or interchanged except as provided for in the classification for investment in road and equipment and in the text of account 542 Rent for leased roads and equipment

motive of others leased or interchanged except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment,"

**NOTE A:** The rent for locomotives included in the lease of road to the accounting company shall be included in account 542 Rent for leased roads and equipment

**NOTE B:** Interest accrued on equipment obligations shall be charged to account 546 Interest on funded debt

**NOTE C:** Rent paid for locomotives used in construction work train service is chargeable to the cost of the work

### 538 Rent for Passenger Train Cars

This account shall include amounts payable accrued for the use of the passenger-train cars of others leased or interchanged, except as provided for in the classification for investment in road and equipment and in the text of account 542 Rent for leased roads and equipment

**NOTE A:** The rent for passenger train cars included in the lease of road to the accounting company shall be included in account 542, "Rent for leased roads and equipment"

**NOTE B:** Interest accrued on equipment obligations shall be charged to account 546 Interest on funded debt

### 539 Rent for Floating Equipment

This account shall include amounts payable accrued for the use of the floating equipment of others, leased or chartered, except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment,"

**NOTE A:** The rent of floating equipment included in the lease of road to the accounting company shall be included in account 542, "Rent for leased roads and equipment"

**NOTE B:** Interest accrued on equipment obligations shall be charged to account 546 Interest on funded debt

### 540 Rent for Work Equipment

This account shall include amounts payable accrued for the use of the work equipment of others leased or interchanged except as provided for in the classification for investment in road and equipment and in the text of account 542 Rent for leased roads and equipment

**NOTE A:** The rent for work equipment included in the lease of road to the accounting company shall be included in account 542 Rent for leased roads and equipment

**NOTE B:** Interest accrued on equipment obligations shall be charged to account 546 Interest on funded debt

**NOTE C:** Rent paid for work equipment when used in construction work train service is chargeable to the cost of the work

### 541 Joint Facility Rents

(a) This account shall include amounts payable accrued as rent for equipment tracks yards terminals and other facilities owned or controlled by other carriers companies or individuals and in the joint use of which the accounting company participates

(b) Amounts paid or payable by the accounting company in reimbursement for taxes on property jointly used shall be charged to this account

**NOTE:** The cost of maintenance operation or administration of joint facilities chargeable to the accounting company shall be charged to the various joint facility accounts provided for operating expenses. When the compensation for the use of joint facilities is a fixed amount or is based upon a charge per passenger ton car or other unit it shall be fairly apportioned between this account and the appropriate joint facility operating expense accounts. This apportionment shall be made by the operating company and shall be followed by the accounting company

### 542 Rent for Leased Roads and Equipment

This account shall include amounts payable accrued as rent for roads tracks or bridges (including equipment or other railway property covered by the contract) the property being owned by other companies and held under lease or other agreement by the terms of which exclusive use and control for operating purposes are secured. The entire amount of rent payable by the lessee in accordance with the agreement shall be included in this account, whether paid to the lessor in cash or disbursed by the lessee on behalf of the lessor as interest on funded debt guaranteed dividends on stock or otherwise

**NOTE A:** When taxes on leased property are assumed by the lessee the accruals of such taxes shall be included in the lessee's account 532 Railway tax accruals

**NOTE B:** If under the terms of a lease the deficit or any portion of it resulting from the lessee's operation of the property leased is payable by the lessor company the amount shall be charged to account 509 Income from lease of road and equipment by the lessor and credited to this account by the lessee

**NOTE C:** If property the rent of which is chargeable to this account is sublet by the accounting company to others the rent from the sublease shall be credited to account 509 Income from lease of road and equipment

**NOTE D:** Payments for the exclusive use of road and equipment maintained by the lessor and used in the accounting company's operations (when considerable in amount and when not provided for in the classifications of operating expenses) shall be divided into two portions: One, representing the cost of maintenance shall be charged to the appropriate maintenance accounts and the other representing rent (amount applicable to the investment in the property) shall be charged to this account

**NOTE E:** When specific charges against the lessee are made by the lessor for repairs of equipment which is actually maintained by it the amount of such charges shall be appropriately credited by the lessor to its equipment repair accounts and charged by the lessee to the corresponding accounts

### 543 Miscellaneous Rents

This account shall include rents payable accrued on property held by the accounting company under lease or other agreement and not properly chargeable to any of the foregoing accounts

**NOTE A:** This account shall not include rents provided for in the operating expense accounts

**NOTE B:** If property the rent of which is chargeable to this account is sublet to others the rent from the sublease shall be credited to the appropriate rent income account depending on the classification of the property as transportation or nontransportation in the same manner as property owned by the carrier

**NOTE C:** Payments for the exclusive use of miscellaneous property maintained by the lessor and used by the accounting company shall be divided into two portions: One representing the cost of maintenance shall be charged to the appropriate operating accounts and the other representing rent (amount applicable to the investment in the property) shall be charged to this account. The bill rendered by the creditor shall show the distribution of the payments as between maintenance and rent and such distribution shall be adhered to by the debtor

### 544 Miscellaneous Tax Accruals

This account shall include all accruals for taxes not provided for elsewhere such as taxes on securities owned, taxes on income from securities owned and taxes on miscellaneous nonoperating physical property the cost of which is includible in balance-sheet account 737, Miscellaneous physical property

NOTE: Taxes upon miscellaneous operating property shall be charged to account 535. Taxes on miscellaneous operating property.

**545 Separately Operated Properties; Loss**

(a) This account shall include amounts payable under the terms of agreements or contracts whereby the deficit resulting from the operation by others of properties of other companies having a separate corporate existence is to be paid, in whole or in part by the accounting company.

(b) In determining the amount payable by the accounting company consideration shall be given not only to the operating revenues and operating expenses but also to other items of income or deductions which affect that amount.

NOTE A: The amount receivable by the operating company shall be credited by it to account 518 "Contributions from other companies".

NOTE B: Dividends or other returns upon securities issued by separately operated companies and held or controlled by the accounting company shall not be included in this account to offset a deficit payable, but in accounts 513 "Dividend income"; or 514 "Interest income" as may be appropriate.

**546 Interest on Funded Debt**

This account shall include the cumulative accruals of interest on all classes of long-term debt the principal of which is includible in accounts 765, "Funded debt unmatured"; 766, "Equipment obligations"; 767 "Receivers and trustees securities"; 768 "Debt in default"; and 769 "Amounts payable to affiliated companies". This account shall be kept in such form that the interest on receivers and trustees securities and on other classes of funded debt may be shown separately in the annual report to the Commission.

NOTE A: This account shall not include charges for interest on funded debt obligations issued or assumed by the accounting company and owned by it whether pledged as collateral or held in its treasury in special deposits, or in sinking or other reserve funds.

NOTE B: When funded debt is incurred for new lines or extensions or for addition and betterment purposes the accruals of interest on such funded debt (less interest received on unexpended balances) to the date of completion or coming into service of the property so acquired shall be included in the road and equipment accounts.

NOTE C: This account shall be maintained so as to show separately: (a) fixed interest which will be paid or for which provision

Loss on sale of securities acquired for investment purposes and charges to write down the ledger value of such securities because of impairment in their value

Loss from company bonds reacquired

(b) When the loss on the sale of land, noncarrier property, or investment securities other than temporary cash investments or on the reacquisition of the company's own bonds is so material in amount that its inclusion in income account would distort and impair the significance of net income for the year such loss shall be debited to the appropriate retained income account

**560 Form of Income Statement**

The classified form of income statement is designed to show the financial changes resulting from transportation operations and other business of the accounting company during any specified period

**ITEMS OF EXPENSE**

Advertising annual reports (lessor companies only)

Calls for bonds in accordance with sinking fund provisions of mortgages

Directors fees

Printing and mailing dividend checks

Publishing and mailing annual reports and other corporate statements to shareholders

Publishing notices of declaration of dividends

Law expenses

Office expenses

Salaries of officers, clerks and attendants

Stationery and printing

NOTE: Administration expenses incident to railway operation are includible in the primary accounts provided for in operating expense general account 450 General

**550 Income Transferred to Other Companies**

(a) This account shall include the whole or any portion of the income of the accounting company payable to another company under the terms of agreements or contracts without obligation for reimbursement

(b) In determining the amount payable by the accounting company consideration shall be given not only to operating revenues and operating expenses but also to other items of income or deduction which affect that amount

NOTE A: The amount receivable by the other company shall be credited by it to account 512 Separately operated properties—Profit

NOTE B: Dividends or other payments upon securities issued or assumed by the accounting company shall not be included in this account

**551 Miscellaneous Income Charges**

(a) This account shall include items not provided for elsewhere properly chargeable to income account during the current year. Among the items which shall be included in this account are:

Interest on tax deficiencies on overcharge claims and on court awards

Income tax upon the interest on the accounting company's funded debt when these taxes are assumed by the company

Payments of old accounts previously written off

Penalties and fines for violation of the Interstate Commerce Act or other Federal and State laws when not specifically provided for elsewhere

Loss on sale of securities carried as temporary cash investments

Loss on sale of land used for transportation purposes and of noncarrier property

for payment will be made when the interest matures; (b) interest in default; and (c) contingent interest determined to be payable

**547 Interest on Unfunded Debt**

This account shall include interest accrued on unfunded debt such as short-term notes payable on demand or having dates of maturity one year or less from dates of issue and open accounts including discount and expense on demand and short-term loans interest on receipts outstanding for installments paid on capital stock interest on deferred payments for public improvements and other analogous items. The discount on short-term notes if of a considerable amount shall be distributed through equal monthly charges over the term of the notes

NOTE: When short term notes or other evidences of unfunded indebtedness are issued for new lines or extensions or for addition and betterment purposes the accrual of interest to the date of completion or coming into service of the property shall be included in the road and equipment accounts

**548 Amortization of Discount on Funded Debt**

(a) This account shall be charged during each fiscal period with the proportion of the discount and expense on funded debt obligations applicable to that period according to a rule the uniform application of which through the interval between the date of sale and the date of maturity will extinguish the discount and expense on funded debt

(b) The charge to this account for any period must not be either greater or less than the proportion of the balance remaining unamortized applicable to that period so long as any portion of the discount and expense remains unextinguished, except that if the total discount and expense applicable to any particular issue of securities does not exceed \$25 000 the entire amount may be charged to this account at time of issue

**549 Maintenance of Investment Organization**

This account shall include the directly assignable administration expenses of the accounting company which are incident to its investments in leased or nonoperating physical property and in stocks bonds or other securities

NOTE: Taxes upon miscellaneous operating property shall be charged to account 535. Taxes on miscellaneous operating property.

**545 Separately Operated Properties; Loss**

(a) This account shall include amounts payable under the terms of agreements or contracts whereby the deficit resulting from the operation by others of properties of other companies having a separate corporate existence is to be paid, in whole or in part by the accounting company.

(b) In determining the amount payable by the accounting company consideration shall be given not only to the operating revenues and operating expenses but also to other items of income or deductions which affect that amount.

NOTE A: The amount receivable by the operating company shall be credited by it to account 518 "Contributions from other companies".

NOTE B: Dividends or other returns upon securities issued by separately operated companies and held or controlled by the accounting company shall not be included in this account to offset a deficit payable, but in accounts 513 "Dividend income"; or 514 "Interest income" as may be appropriate.

**546 Interest on Funded Debt**

This account shall include the cumulative accruals of interest on all classes of long-term debt the principal of which is includible in accounts 765, "Funded debt unmatured"; 766, "Equipment obligations"; 767 "Receivers and trustees securities"; 768 "Debt in default"; and 769 "Amounts payable to affiliated companies". This account shall be kept in such form that the interest on receivers and trustees securities and on other classes of funded debt may be shown separately in the annual report to the Commission.

NOTE A: This account shall not include charges for interest on funded debt obligations issued or assumed by the accounting company and owned by it whether pledged as collateral or held in its treasury in special deposits, or in sinking or other reserve funds.

NOTE B: When funded debt is incurred for new lines or extensions or for addition and betterment purposes the accruals of interest on such funded debt (less interest received on unexpended balances) to the date of completion or coming into service of the property so acquired shall be included in the road and equipment accounts.

NOTE C: This account shall be maintained so as to show separately: (a) fixed interest which will be paid or for which provision

<sup>1</sup> Includes operations of water lines if any

<sup>2</sup> If a loss the amount shall be so indicated

the amount is material in relation to net income for the year

NOTE: When the aggregate amount resulting from adjustments for securities reacquired is not material in relation to net income for the year that amount shall be credited to account 519 Miscellaneous income.

In determining whether the amount of profit is material all adjustments in this account together with the adjustments in account 615, Loss on company bonds reacquired shall be considered.

## 606 Other Credits to Retained Income

(a) This account shall include nonrecurring profits and credit adjustments not provided for elsewhere which are so material in amount that inclusion in income accounts would distort such accounts and impair the significance of net income for the year. Among amounts which shall be included in this account are adjustments of items relating to prior years other than ordinary adjustments of a recurring nature such as unusual credit adjustments and refunds of Federal income taxes of prior years unusual adjustments of reserves of prior years determined to be excessive and other items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year (See account 519 Miscellaneous income).

(b) The account may also include profits and credit adjustments not provided for elsewhere resulting from unusual transactions and events which occurred during the current year but only after such inclusion has been authorized by the Commission.

(c) Ordinary adjustments of a recurring nature shall be included in the same account or accounts which would have been credited if the item had been taken up or adjusted in the year to which it pertained.

## RETAINED INCOME ACCOUNTS

### Credit

#### 601 Credit Balance (at Beginning of Calendar Year)

This account shall include the net credit balance in the retained income account at the beginning of the calendar year.

#### 602 Credit Balance Transferred from Income

This account shall show the net credit balance brought forward from the income account for the calendar year.

#### 603 Profit from Sale of Property

This account shall include profit derived from the sale of land used for transportation purposes and of noncarrier property when such profit is material in relation to net income for the year (See account 519 Miscellaneous income).

#### 604 Profit from Sale of Investment Securities

This account shall include profit derived from the sale of investment securities other than temporary cash investments when such profit is material in relation to net income for the year.

NOTE: Profit from sale of securities carried as temporary cash investments shall be credited to account 519 Miscellaneous income.

#### 605 Profit from Company Bonds Reacquired

This account shall include the amount of profit resulting from adjustments required to bring to par bonds and other debt securities issued or assumed by the company and reacquired at a cost less than the par value after giving effect to unreleased premiums and extinguished discount on such securities when

Other Income—Continued		Fixed Charges	
509	Income from lease of road and equipment	542	Rent for leased roads and equipment
510	Miscellaneous rent income	546	Interest on funded debt:
511	Income from nonoperating property	(a)	Fixed interest not in default
512	Separately operated proper ties—Profit	(b)	Interest in default
513	Dividend income	547	Interest on unfunded debt
514	Interest income	548	Amortization of discount on funded debt
516	Income from sinking and other reserve funds		Total fixed charges
517	Release of premiums on funded debt		Income after fixed charges
518	Contributions from other companies		Other Deductions
519	Miscellaneous income	546	Interest on funded debt:
	Total other income	(c)	Contingent interest
	Total income		Net income after fixed charges and other deductions
Miscellaneous Deductions From Income		Supplementary Statement of Specified Income Items	
534	Expenses of miscellaneous operations		Net railway operating income
535	Taxes on miscellaneous operating property		Add depreciation—Way and structures
543	Miscellaneous rents		Add depreciation—Equipment
544	Miscellaneous tax accruals		Net railway operating income before depreciation
545	Separately operated proper ties—Loss		Net income
549	Maintenance of investment organization		Add Federal income taxes
550	Income transferred to other companies		Net income before Federal income taxes
551	Miscellaneous income charges		Add depreciation—Way and structures
	Total miscellaneous deductions		Add depreciation—Equipment
	Income available for fixed charges		Add Federal income taxes
			Net income before depreciation and Federal income taxes

\* If a loss the amount shall be so indicated

amount of appropriations no longer required as segregations of retained income. The account shall be subdivided to show the nature of the appropriations being released and the circumstances of the release shall be fully described

# 623 Dividends

This account shall be charged with the amount of dividends declared on actually outstanding capital stock issued or assumed by the company. If the dividend is not payable in cash, the securities or other property to be distributed shall be described with sufficient particularity to identify the distribution. The account shall be subdivided to show separately the dividends declared on the various subclasses of capital stock

NOTE: This account shall not include charges for dividends on capital stock issued or assumed by the company and owned by it whether pledged as collateral or held in its treasury in special deposits or in sinking or other reserve funds

# 620 Appropriations for Sinking and Other Reserve Funds.

This account shall be charged and account 797, Retained Income—Appropriated shall be credited with amounts appropriated pursuant to provisions of reorganization plans mortgages deeds of trust or other contracts requiring payments into sinking funds capital funds and other funds

# 621 Appropriations for Other Purposes

This account shall be charged and account 797, Retained Income—Appropriated shall be credited with the amount of appropriations for general contingencies indefinite possible future losses and other corporate purposes not provided for elsewhere. The appropriations shall be released when their respective purposes have been served

# 622 Appropriations Released

This account is provided to return to unappropriated retained income the

ing whether the amount of loss is material all adjustments in this account together with the adjustments in account 605 Profit from company bonds reacquired shall be considered

# 616 Other Debits to Retained Income

(a) This account shall include non-curring losses and debit adjustments not provided for elsewhere which are so material in amount that inclusion in income accounts would distort such accounts and impair the significance of net income for the year. Among amounts which shall be included in this account are adjustment of items relating to prior years other than ordinary adjustments of a recurring nature such as unusual debit adjustments and assessments of Federal income taxes of prior years unusual adjustments of reserves of prior years determined to be deficient and similar items representing transactions of prior years which are not identifiable with or do not result from business operations of the current year (See account 551 Miscellaneous income charges )

(b) This account shall also include charges which reduce or write off discount on capital stock issued by the company but only to the extent that such charges exceed credit balances in capital surplus for shares reacquired

(c) This account may also include losses and debit adjustments not provided for elsewhere resulting from unusual transactions and events which occurred during the current year such as losses resulting from abnormal floods storms and similar calamities or catastrophes but only after such inclusion has been authorized by the Commission

(d) Ordinary adjustments of a recurring nature shall be included in the same account which would have been charged if the item had been taken up or adjusted in the year to which it pertained

# 617 Federal Income Taxes Assigned to Retained Income.

This account shall include the estimated Federal income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which, for accounting purposes, are classified as unusual and extraordinary and are recorded in retained income accounts

## Debit

### 611 Debit Balance (at Beginning of Calendar Year)

This account shall include the net debit balance in the retained income account at the beginning of the calendar year

### 612 Debit Balance Transferred from Income

This account shall show the net debit balance brought forward from the income account for the calendar year

### 613 Loss on Sale or Retirement of Property

This account shall include the loss on sale or retirements of land and on non-transportation property for which a depreciation reserve has not been provided when such loss is material in relation to net income for the year (See account 551, Miscellaneous Income Charges ) This account also shall include loss on sale or retirement of transportation property for which depreciation reserve has not been provided when so authorized by the Commission.

### 614 Loss on Sale of Investment Securities

This account shall include loss incurred on the sale of investment securities other than temporary cash investments when such loss is material in relation to net income for the year

NOTE: Loss on sale of securities carried as temporary cash investments shall be charged to account 551 Miscellaneous income charges

### 615 Loss on Company Bonds Reacquired

(a) This account shall include the amount of loss resulting from adjustments required to bring to par bonds and other debt securities issued or assumed by the company and reacquired at a cost exceeding the par value after giving effect to unreleased premiums and unextinguished discount on such securities when the amount is material in relation to net income for the year

(b) When the aggregate amount resulting from adjustments for securities reacquired is not material in relation to net income for the year this amount shall be charged to account 551, Miscellaneous income charges. In determining

**GENERAL BALANCE SHEET ACCOUNTS****Debit****701 Cash**

(a) This account shall include money, checks, sight drafts and sight bills of exchange in the hands of the accounting company's financial officers and agents or in transit from its agents and conductors for which such agents and conductors have received credit. It shall include also deposits with banks and trust companies available for use on demand, and savings accounts subject to the usual clause reserving the right to defer payment for a specified number of days.

(b) The amount of checks and drafts which have been transmitted to payees and which remain unpaid at the close of the accounting period shall be credited to this account. When the amount of such checks and drafts cannot be determined with absolute accuracy an estimate of the amount shall be used.

**702 Temporary Cash Investments**

This account shall include the cost of securities and other collectible obligations acquired for the purpose of temporarily investing cash such as United States Treasury certificates, marketable securities, time drafts, receivable demands, loans, time deposits with banks and trust companies and other similar investments of a temporary character.

**703 Special Deposits**

This account shall include funds specifically deposited for the payment of dividends, interest and other current liabilities; also other deposits subject to current withdrawal for specific purposes only.

Note: Deposits available for general company purposes shall be included in account 701 Cash.

**704 Loans and Notes Receivable**

This account shall include the book value of all collectible obligations in the form of demand or time loans and notes receivable or other similar evidences (except interest coupons) of money receivable within a time not exceeding one year from date of issue.

Note A: Obligations held as investments which mature more than one year after date of issue shall be included in accounts 721

Investments in affiliated companies; or 722 Other investments as may be appropriate.

Note B: Loans and notes receivable acquired for the purpose of temporarily investing cash shall be included in account 702 Temporary cash investments.

**705 Traffic and Car Service Balances—Dr.**

This account shall include the net of the balances receivable from or payable to other companies in the accounts representing interline freight, passenger and baggage revenues and charges for equipment interchanged on a per diem or a mileage basis when such balances result in a net debit.

Note A: When the net of the balances is a credit it shall be included in account 702 Traffic and car service balances—Cr.

Note B: The amount to be entered in this account in the carrier's annual report to the Commission shall be stated in accordance with the text of this account. For convenience in accounting the carrier may maintain currently separate subaccounts under the following captions:

705 and 752(a) Interline freight balance  
705 and 752(b) Interline passenger balance  
705 and 752(c) Interline baggage balance  
705 and 752(d) Equipment interchange balance

**706 Net Balance Receivable from Agents and Conductors**

This account shall include the net balance due in current accounts from agents from train sleeping car and dining car conductors and from train collectors, train auditors, porters and other employees and representatives charged with the collection or custody of current revenues.

Note: Amounts advanced to general and special agents as working funds shall not be included in this account but in account 710 Working fund advances.

**707 Miscellaneous Accounts Receivable**

This account shall include amounts due in audited accounts considered good such as those due from the United States or other Governments for the transportation of mails and Government property and from express companies for express facilities furnished under contract; amounts due from other carriers on account of freight claims paid; miscellaneous bills against other railway companies, corporations, firms and individuals; and other similar items.

Note: The amount to be entered in this account is not the net balance between this account and account 754 Miscellaneous accounts payable.

**708 Interest and Dividends Receivable**

This account shall include the amount of interest accrued to the date of the balance sheet on bonds owned and on loans made, the amount of dividends declared on stocks owned and dividends accrued on such stocks when contracts require that the dividends be paid at stated times.

Note A: No amount representing interest or dividends receivable shall be included in this account unless its payment is reasonably assured by past experience, anticipated provision or otherwise.

Note B: No dividends or other returns on securities issued or assumed by the accounting company shall be included in this account.

Note C: If settlement of amounts included in this account is not made when due either in cash or with other tangible assets of equal money value, such amounts shall be cleared from this account and charged to the income account originally credited. If notes are taken in settlement of amounts included in this account the amounts thereof shall be charged to account 704. Loans and notes receivable or account 741. Other assets, as may be appropriate but such amounts shall not be credited to income (or if previously credited to income shall be cleared therefrom as provided in the first sentence of this note). Unless inclusion therein is justified by the current asset position of the obligor, if such notes are of doubtful value the amount at which they are charged to account 741. Other assets, shall be credited to account 784. Other deferred credits and income shall not be credited until payment is received and then only with the amount collected. If long term notes are taken in settlement of current assets the credit to income shall be cancelled and account 741. Other assets shall be charged with their true values and a like sum shall be credited to account 784. Other deferred credits.

**709 Accrued Accounts Receivable**

This account shall include estimates of all unaudited current items receivable by the carrier to the date of the balance sheet, including those which are creditable to revenue expense or income accounts in accordance with the instruction relating to unaudited items. Among the items which shall be included in this account are:

Rents receivable which are not includible in account 707 Miscellaneous accounts receivable.

Amounts receivable from others for unreported interline traffic.  
Amounts receivable from others for use of facilities including equipment for which bills have not been rendered.  
Amounts receivable from others for services for which bills have not been rendered.

**710 Working Fund Advances**

This account shall include amounts advanced to general and special agents and to other officers and employees as working funds from which certain expenditures are to be made and accounted for. It also includes advances to fast freight lines and to demurrage and other bureaus.

Note: Advances to jointly owned or used terminal companies and other companies for permanent working funds or capital purposes shall be included in accounts 721 Investments in affiliated companies or 722 Other investments as may be appropriate.

**711 Prepayments**

This account shall include the balances in the accounts representing short-term prepaid rents chargeable to the appropriate rent accounts as the term is consumed for which the rents are paid; also short-term interest and insurance premiums paid in advance of their accrual which are to be apportioned and charged as they accrue to the appropriate accounts.

Note: Expenditures by a carrier for improvements to office buildings and other facilities rented for more than one year title to which will pass to the lessor at the end of the rental period shall be charged to account 743. Other deferred charges and amortized over the rental period as additional rent.

**712 Material and Supplies**

(a) This account shall include the balances representing the cost less depreciation, if any of all unapplied material such as road and shop material articles in process of manufacture by the accounting company, fuel, stationery and dining car and other supplies. In determining the cost of material and supplies suitable allowance shall be made for any discounts allowed in the purchase thereof.

(b) Material and supplies shall be credited to this account and charged to the appropriate operating expense or other account on the basis of actual costs, average cost, or other recognized pricing system provided that such system is consistent with the accounting system.

sistently applied and is based on the cost of such material and supplies

(c) An inventory of material and supplies shall be taken during each calendar year and the necessary adjustments to bring this account into harmony with the actual inventory balances shall be made in the accounts of the year in which the inventories are taken. In effecting this adjustment determined differences in accounting for important classes of material shall be equitably assigned among the accounts to which the classes of material are ordinarily chargeable. Other differences shall be equitably apportioned among the primary accounts to which material has been charged since the last inventory

NOTE: Balances representing the cost of unapplied construction material and supplies located at the point of use which have been purchased for projected new roads and extensions or for new railroad equipment are provided for in road and equipment account 47. Unapplied construction material and supplies or account 59. Unapplied material and supplies—Equipment

### 713 Other Current Assets

This account shall include items of current assets not covered by accounts 701 to 712 inclusive. The account shall include only items currently collectible and shall not include amounts the current collection of which is not reasonably assured and may be deferred (See instruction 6-1.)

### 715 Sinking Funds

(a) This account shall include the amount of cash the ledger value of live securities of other companies, and other assets which are held by trustees of sinking and other funds for the purpose of redeeming outstanding obligations including such assets so held in the hands of the accounting company's treasurer when the assets are segregated in a distinct fund

(b) The account shall include amounts deposited with trustees on account of mortgaged property sold the proceeds of which are to be held for the redemption of securities; and also the par value (or with respect to no par stock the amounts recorded in account 791 Capital stock issued, relating thereto) of live securities issued or assumed by the accounting company and held in such funds

### 717 Insurance and Other Funds

This account shall include the amount of cash and the ledger value of securities of other companies and other assets which are in the hands of trustees or managers of insurance employees pension, savings, relief hospital and other funds which have been raised for specific purposes not provided for elsewhere; also the par value (or with respect to no par stock the amounts recorded in account 791 Capital stock issued relating thereto) of securities issued or assumed by the accounting company and held in such funds. A separate account shall be kept for each fund

NOTE A: Sinking funds and capital and other reserve funds are provided for in accounts 715 and 716 respectively

NOTE B: In stating the balance sheet in the annual reports to the Commission the total amount of the funds and the par value (or with respect to no par stock, the amounts recorded in account 791 Capital stock issued relating thereto) of securities issued or assumed by the accounting company and held in the funds shall be shown in the short columns and the net amount of the funds (total amount less securities issued or assumed) shall be shown in the long column

NOTE C: This account shall not include funds held by the accounting company solely as trustee and in which it has no beneficial interest

NOTE D: Bank deposits subject to current withdrawal for specific purposes only shall be included in account 703 Special deposits. Deposits available for general company purposes shall be included in account 701 Cash

### 721 Investments in Affiliated Companies

(a) This account shall include the ledger value of the accounting company's investment in securities issued or assumed by affiliated companies other than securities held in special deposits or special funds and also investment advances made to affiliated companies

(b) This account shall be maintained in such manner as to show each of the following classes of investment in each affiliated company:

- (a) Stocks
- (b) Bonds
- (c) Other secured obligations
- (d) Unsecured notes
- (e) Investment advances
- (c) A complete record of securities pledged shall be maintained so that the

ledger value of securities pledged and unpledged may be shown separately in the annual report to the Commission

NOTE A: Accounts with affiliated companies which are subject to current settlement, if their collection is reasonably assured, shall be classed as current assets and if settlement is deferred beyond one year such items shall be transferred to account 741 Other assets

NOTE B: The term affiliated companies (also see Definition 4) includes:

1 Controlled companies including companies solely controlled by the accounting company and also companies jointly controlled by the accounting company and others under a joint arrangement

2 Controlling companies including both companies solely controlling the accounting company and companies which jointly control the accounting company under a joint arrangement

3 Companies controlled by controlled companies

4 Companies controlled by controlling companies

By control (also see Definition 8) is meant the ability to determine the action of a corporation for the purposes of this account, the following are to be considered forms of control:

(a) Right through title to securities issued or assumed to exercise the major part of the voting power in the controlled corporation

(b) Right through agreement of some character or through some source other than title to securities to name the majority of the board of directors managers or trustees of the controlled corporation

(c) Right to foreclose a first lien upon all or a major part in value of the tangible property of the controlled corporation

(d) Right to secure control in consequence of advances made for construction of the operating property of the controlled corporation

(e) Right to control only in a specific respect the action of the controlled corporation

A leasehold interest in the property of a corporation is not to be classed as a form of control over the lessor corporation

Sole control is that which rests in one corporation

Joint control is that which rests in two or more corporations and which is held under a joint arrangement

NOTE C: The value of securities borrowed by the accounting company and pledged shall not be included in this account

NOTE D: The value of securities pledged for purposes other than that of security for funded debt or short term loans shall be included in accounts 715 Sinking funds

716 Capital and other reserve funds or

717 Insurance and other funds as may be appropriate

**722 Other Investments**

(a) This account should include the ledger value of the accounting company's investment in securities issued or assumed by nonaffiliated companies other than securities held in special deposits or special funds; also investment advances made to nonaffiliated companies and to individuals

(b) This account shall be maintained in such manner as to show each of the following classes of investment in each nonaffiliated company:

- (a) Stocks
- (b) Bonds
- (c) Other secured obligations
- (d) Unsecured notes
- (e) Investment advances

(c) A complete record of securities pledged shall be maintained so that the ledger value of securities pledged and unpledged may be shown separately in the annual report to the Commission

**NOTE A:** Accounts with nonaffiliated companies which are subject to *current settlement* if their collection is reasonably assured, shall be classed as current assets and if settlement is deferred beyond one year such items shall be transferred to account 741 Other assets

**NOTE B:** The term nonaffiliated companies includes all companies other than those defined as affiliated in Note B of account 721 Investments in affiliated companies

**NOTE C:** The value of securities borrowed by the accounting company and pledged shall not be included in this account

**NOTE D:** The value of securities pledged for purposes other than that of security for funded debt or short term loans shall be included in accounts 715 Sinking funds 716 Capital and other reserve funds or 717 Insurance and other funds as may be appropriate

**723 Reserve for Adjustment of Investment in Securities—Cr**

(a) This account shall include the total of the balances in such reserves as are maintained by the accounting company for the purpose of providing for reductions in the value of securities owned and recorded in accounts 721 Investments in affiliated companies or 722 Other investments Corresponding charges shall be made to account 551 Miscellaneous income charges or account 616 Other debits to retained income as appropriate

(b) If reserves are maintained in provision for anticipated losses in specific

securities when the related assets are written down or written off or are sold or otherwise disposed of at a loss the reduction in the book value of the losses sustained shall be charged to this account to the extent of the credit balance in the account applicable to the particular securities involved and the remainder if any, shall be charged to account 551 Miscellaneous income charges or account 616 Other debits to retained income as appropriate In case a general reserve for losses in unspecified security values is maintained all such losses resulting from write-downs write-offs etc shall be charged to this account to the extent of the total credit balance in the account and the remainder, if any shall be charged to account 551 Miscellaneous income charges or account 616 Other debits to retained income as appropriate

**731 Road and Equipment Property**

This account shall include the accounting company's investment in road and equipment (including that held under contract for purchase) used or held for use as transportation property in existence at the date of the balance sheet When property is retired from service this account shall be credited with the ledger value of the property retired

**NOTE A:** This account shall not include any items representing titles to securities

**NOTE B:** When any equipment is acquired under an agreement which provides that the cost shall be paid in installments the cost (its money value at time of purchase) shall be charged to the appropriate road and equipment accounts at the time the equipment is delivered to the carrier and included in this account in the same manner as the cost of equipment purchased outright When the par value of notes or other securities issued in payment or in part payment for such equipment is more (or less) than the actual cash value of the equipment at the time of the purchase or of the proportion to which the securities are applicable the difference between the par value of the securities and the actual cash value of the equipment or of the proportion paid for by the securities shall be charged (or credited) to the proper discount and premium accounts

**NOTE C:** Held for use as referred to above implies the ability of the carrier to substitute by plans or policy its characterization of the probable future use which is to be made of the property within a reasonable period of time

**732 Improvements on Leased Property**

(a) This account shall include the cost of improvements made by the lessee to property which is held under lease from others or through control of the company owning the property where such improvements are used by the lessee in transportation service and the lessor is not to be reimbursed by the lessee for such improvements (See instruction 2-17)

(b) The carrier's records shall be kept in such manner as to show the debits and credits to this account in accordance with the provisions for road and equipment

**NOTE A:** This account shall not include any items representing titles to securities

**NOTE B:** When the lessor company includes in account 731 Road and equipment property the cost of improvements made by the lessee to property leased by it from the lessor and settlement is not made at the time for the cost thereof the lessee pending settlement with the lessor, shall include the cost thereof in account 721 Investments in affiliated companies or 722 Other investments as may be appropriate

**735 Accrued Depreciation; Road and Equipment**

(a) This account shall be credited with amounts concurrently charged to operating expenses or other authorized accounts to cover the loss in service value of depreciable road and equipment property It shall also include amounts which the Commission may authorize the accounting company to charge to account 616 Other debits to retained income in respect to past accruals of depreciation

(b) The service value of each unit of property retired (and also of each minor item less than a unit retired and not replaced) for which depreciation reserve has been established shall be charged to this account

(c) Comprehensive instructions pertaining to depreciation accounts rates of depreciation and records to be maintained are contained in instruction 5

**736 Amortization of Defense Projects; Road and Equipment**

This account shall include the amounts of accumulated past provisions for amortization of road and equipment defense projects the cost of which is included in account 731 Road and equipment property or account 732 Im-

provements on leased property This balance shall be charged with the credit balance herein applicable to specific property at the time the property is retired The accounting company shall maintain subaccounts separately for amortization of (1) road property and (2) equipment

**737 Miscellaneous Physical Property**

This account shall include the accounting company's investment in physical property other than property assignable to accounts 731 and 732 including hotels restaurants powerplants etc which are not operated by the accounting company or another carrier in connection with its transportation service

**ITEMS OF INVESTMENT**

Coal and other mines  
Commercial power plants  
Hotels and restaurants  
Lands and buildings not used in transportation operations  
Lands and other property acquired and held in anticipation of future use  
Mineral and timber lands  
Rails and other track material leased to others

Saw mills and other manufacturing plants not operated in connection with transportation service

**738 Accrued Depreciation; Miscellaneous Physical Property**

This account shall be credited with amounts charged to income or other authorized accounts to cover the depreciation of property the cost of which is included in account 737 Miscellaneous physical property When any miscellaneous physical property is destroyed sold or otherwise retired from service the amount included in this account with respect to the property retired shall be charged hereto

**741 Other Assets**

This account shall include the estimated value of salvage recoverable from property retired when the recovery of the salvage is deferred for any reason (See instruction 2-5) This account also shall include other assets of doubtful value collection of which within one year is not assured; also other deferred assets and miscellaneous assets not otherwise provided for in general balance sheet accounts (See instruction 6-1)

**742 Unamortized Discount on Long term Debt**

This account shall include the total of the net debit balances in the discount expense and premium accounts for the several subclasses of funded debt (See instruction 6-3)

**743 Other Deferred Charges**

This account shall include the amount of debit balances in suspense accounts that cannot be cleared and disposed of

until additional information is received, such as freight claims paid when found to be correct, but in advance of investigation in clearing accounts such as Shop expenses, Store expenses, Operations of gravel pits and Operation of quarries; unextinguished discount on short-term notes; unadjusted debit items not otherwise provided for and similar items the proper disposition of which is uncertain

**Credit**

**751 Loans and Notes Payable**

(a) This account shall include the balances representing obligations outstanding in the form of loans and notes payable or other similar evidences (except interest coupons) of indebtedness payable on demand or within a time not exceeding one year from date of issue (b) This account shall be kept in such form so as to show separately the amounts of notes payable within one year from date of issue that are secured by collateral

NOTE: This account shall not include obligations which mature more than one year after date of issue, or demand or short term notes issued to affiliated companies and includible in account 769 'Amounts payable to affiliated companies'

**752 Traffic and Car service Balances—Cr**

This account shall include the net of the balances receivable from or payable to other companies in the accounts representing interline freight passenger and baggage revenues and charges for equipment interchanged on a per diem or a mileage basis when such balances result in a net credit

NOTE A: When the net of the balances is a debit it shall be included in account 705 'Traffic and car service balances—Dr'

NOTE B: The amount to be entered in this account in the carrier's annual report to the Commission shall be stated in accordance with the text of this account. For convenience in accounting the carrier may maintain currently separate subaccounts under the following captions:

- 705 and 752(a) Interline freight balance
- 705 and 752(b) Interline passenger balance
- 705 and 752(c) Interline baggage balance
- 705 and 752(d) Equipment interchanged balance

**753 Audited Accounts and Wages Payable**

This account shall include the amount of audited vouchers or accounts and audited payrolls unpaid on the date of the balance sheet. It shall include balances representing unclaimed wages and outstanding pay and time or discharge checks issued in payment of wages and all other unpaid vouchered items

NOTE: The amount of checks and drafts which have been transmitted to payees and which remain unpaid at the close of the

accounting period shall be credited to account 701 'Cash'

**754 Miscellaneous Accounts Payable**

This account shall include outstanding drafts drawn by station agents outstanding drafts drawn on the company in settlement of freight claims conductors refund and extra-fare checks not presented for redemption deposits of affiliated companies subject to current settlement taxes collected from employees and others for the account of taxing agencies and other items of the nature of demand liabilities not covered by accounts 751 752 753 755 and 756

NOTE A: The amount to be reported under this account is not the net balance between this account and account 707 'Miscellaneous accounts receivable'

NOTE B: The amount of checks and drafts, which have been transmitted to payees and which remain unpaid at the close of the accounting period, shall be credited to account 701 'Cash'. When the amount of such checks and drafts cannot be determined with absolute accuracy an estimate of the amount shall be used

**755 Interest Matured Unpaid**

This account shall include the amount of matured and unpaid interest on funded debt and other obligations of the accounting company for which provision has been made for current settlement. Interest which matures on the first day following that for which the balance sheet is made shall be included in this account

NOTE: Interest matured unpaid on non negotiable debt to affiliated companies if not subject to current settlement shall be included in account 769 'Amounts payable to affiliated companies'

**756 Dividends Matured Unpaid**

This account shall include the amount of dividends payable on capital stock but unpaid uncalled for or unclaimed at the date of the balance sheet. Dividends which become payable on the first day following that for which the balance sheet is made shall be included in this account

**757 Unmatured Interest Accrued**

This account shall include the amount of interest subject to current settlement accrued to the date as of which the balance sheet is made, but not payable until after the first day following that date, on funded securities or obligations debt in

to differences in mortgage or other lien or security therefor rate of interest, interest dates or date of maturity. Parts of any issue agreeing in other characteristics but maturing serially may be treated as of the same subclass.

(c) Records shall be maintained in such manner as to show (1) securities the issuance or assumption of which has been authorized by the Commission under provisions of the Interstate Commerce Act and similar securities issued or assumed prior to the effective date of such provisions of the Act and (2) other obligations of a kind which may legally be issued or assumed without such authorization.

**NOTE A:** Securities (other than equipment obligations) maturing one year or less from date of issue shall be included in accounts 769. Amounts payable to affiliated companies or 751. Loans and notes payable except that where an issue of securities maturing serially over a period of years contains short term obligations such obligations may be included as funded debt. Matured funded debt shall be included in account 763. Other current liabilities, if provision has been made for current settlement. If no provision has been made for current settlement matured funded debt shall be included in account 768. Debt in default, except that when the collection of matured funded debt of affiliated companies is not enforced by controlling companies the principal amount (to the extent held by a controlling company) shall be included in account 769. Amounts payable to affiliated companies.

**NOTE B:** See definitions 2 actually issued; 3 actually outstanding; 14 nominally issued; and 15 nominally outstanding.

**NOTE C:** Nonnegotiable notes having a maturity of more than one year after date of issue held by affiliated companies shall be included in account 769. Amounts payable to affiliated companies.

**NOTE D:** Securities nominally issued or reacquired and held in the company's treasury except securities held by trustees in sinking or other funds shall be included in a subdivision of this account. In the general balance sheet statement the total unmatured funded debt included in the account shall be shown in the first short column. The amount nominally but not actually issued and the amount nominally outstanding shall be shown in the second short column, and in the long column shall be shown the amount actually outstanding.

## 766 Equipment Obligations

(a) This account shall include the par value of equipment securities and the

the debt of other companies. (See account 764. Equipment obligations and other debt due within one year.)

(b) The amounts included in this account shall be divided so as to show the par value of (1) certificates or other evidences of funded debt (pledged and unpledged) held in the company's treasury by its agents or trustees or otherwise subject to its control including both those reacquired after actual issue and those nominally but never actually issued; and (2) certificates or other evidences of funded debt issued and actually outstanding being those not held by the company its agents or trustees or subject to its control.

(c) The amounts included herein shall be further divided so as to show the amount of each class of funded debt as follows:

(1) *Mortgage bonds* Bonds secured by lien on physical property and not includible in the other subdivisions of this account.

(2) *Collateral trust bonds* Bonds and notes secured by a lien on securities or other negotiable paper; and stock trust certificates that are similar in character to collateral trust bonds.

(3) *Income bonds* Bonds which are a lien on a carrier's revenue alone or bonds which while being a lien on its property and franchises can claim payment of interest only in case interest is earned.

(4) *Miscellaneous obligations* All funded obligations not provided for by the other subdivisions of this account also notes unsecured certificates of indebtedness debenture bonds plain bonds real estate mortgages executed or assumed and other similar obligations maturing more than one year from date of issue but excluding liabilities for assessments for public improvements and those evidenced by conditional or deferred equipment purchase contracts for which provision is made in account 782. Other liabilities and account 766. Equipment obligations respectively.

(5) *Receipts outstanding for funded debt* Receipts for payments on account of funded debt. When certificates are issued for such payments the par value shall be included in the account covering the class of funded debt for which the certificates are issued.

(d) Each of the above classes shall also be divided into subclasses according

Federal income taxes which have been concurrently charged to the appropriate income or other accounts for taxes. Such accruals may be based upon estimates provided such estimates shall be adjusted so as to reflect in this account at all times the carrier's estimate of its unpaid liability for each of the several classes of taxes which have not been finally settled.

(b) This account shall be charged with vouchers for the current payment of taxes including taxes paid in advance and also taxes for which accruals have not been made previously but are to be credited to this account.

(c) The records supporting the entries in this account shall be kept to show separately by classes of taxes the amount of the tax accruals for the current year and adjustments of accruals for prior years.

## 763 Other Current Liabilities

There shall be included in this account the principal amount of unrepresented bonds drawn for redemption through the operation of sinking and redemption fund agreements also the principal amount of unrepresented funded debt obligations and receivers and trustees securities which have matured (for which provision has been made for current settlement) and other current liabilities not covered by accounts 751 to 761 inclusive.

## 764 Equipment Obligations and Other Debt Due Within One Year

This account shall include the total amount of bonds equipment obligations and other long-term debt obligations including obligations maturing serially or payable in installments which are due and payable within one year and for which arrangements for refunding have not been made or for which no sinking funds have been provided. This account shall be subdivided according to the different classes of debt so maturing.

## 765 Funded Debt Unmatured

(a) This account shall include the total par value of unmatured debt (other than equipment obligations) maturing more than one year from the close of the accounting period whether the securities were issued by the accounting company or the payment was assumed by the accounting company after being issued as

default; receivers and trustees securities amounts payable to affiliated companies notes payable and other indebtedness issued or assumed by the accounting company.

**NOTE A:** Interest accrued which is not paid when it matures shall be included in account 781. Interest in default, unless provision has been made for current settlement where interest is in default subsequent accruals shall be credited direct to account 781. Interest in default.

**NOTE B:** Interest accrued on amounts recorded in account 769. Amounts payable to affiliated companies and not subject to current settlement shall be included in that account.

## 758 Unmatured Dividends Declared

This account shall include dividends declared on capital stock but not payable until after the first day following the date of the balance sheet.

## 759 Accrued Accounts Payable

This account shall include estimates of unaudited items payable by the carrier to the date of the balance sheet including those which are chargeable to revenue expense or income accounts in accordance with the instruction relating to unaudited items. Among the items which should be included in this account are:

Rents payable under leases due subsequent to the date of the balance sheet which are not includible in account 754. Miscellaneous accounts payable.

Amounts payable to others for unreported interstate traffic.

Amounts payable to others for use of facilities including equipment for which bills have not been rendered.

Amounts payable to others for services for which bills have not been rendered.

Estimated amounts payable within one year covering liability for claims for injuries to persons loss and damage and similar items.

Amounts payable (estimated if necessary) within one year pursuant to agreements with labor organizations or otherwise for employees vacations now earned.

## 760 Federal Income Taxes Accrued

This account shall be credited with the estimated liability for Federal income taxes which has been concurrently charged to the appropriate income or other authorized accounts.

## 761 Other Taxes Accrued

(a) This account shall be credited with the accruals of all taxes other than

principal amount of contractual obligations for the purchase of equipment excluding principal or obligations maturing serially or payable in installments within one year from the close of the accounting period (See account 764 Equipment obligations and other debt due within one year). The amounts included herein shall be divided as follows:

(b) Principal amount of equipment securities including those maturing serially issued or assumed by the accounting company or by receivers and trustees which have been authorized by the Commission under provisions of the Interstate Commerce Act and similar securities issued or assumed prior to the effective date of such provisions of the Act.

(c) Principal sums of obligations for equipment purchased under conditional or deferred payment contracts which may be legally entered into or assumed by the accounting company or by receivers and trustees without authorization by the Commission.

#### 767 Receivers' and Trustees' Securities

When receivers or trustees acting under the orders of a court are in possession of the property of the company and under the order of such court issue or assume evidences of indebtedness (other than equipment securities or obligations) the par value of such evidences shall be credited to this account.

NOTE: The par value of equipment securities or the principal amount of obligations incurred for the purchase of equipment under conditional or deferred payment contracts shall be included in account 766 Equipment obligations.

#### 768 Debt in Default

This account shall include amounts transferred from other accounts representing matured funded securities or obligations receivers and trustees securities equipment obligations and short-term notes when maturity dates of such obligations have not been extended.

NOTE A: The principal amount of matured funded debt of affiliated companies the collection of which is not enforced by the controlling company shall (to the extent of the principal amount held by the controlling company) be included in account 769 Amounts payable to affiliated companies.

NOTE B: The principal amount of unpre-sented funded debt obligations which have matured and for which provision has been

made for payment shall be included in account 763 Other current liabilities.

#### 769 Amounts Payable to Affiliated Companies

This account shall include the par value of *nonnegotiable* notes issued to affiliated companies; also matured funded debt of affiliated companies held by controlling companies where there is no agreement for an extension as to time of payment and collection of the principal is not enforced; credit balances in open accounts with such companies other than credit balances in current accounts classifiable as current liabilities and interest accrued on notes matured funded debt of affiliated companies and open accounts included in this account when such interest is not subject to current settlements. The amounts included herein shall be divided as follows:

(a) Notes, including herein not only nonnegotiable notes that run longer than a term of one year, but also such notes payable on demand or within one year from the date of issue when it is mutually agreed that the notes shall not be enforced as current assets by the holder.

(b) Par value of matured funded debt of affiliated companies held by controlling companies where there is no agreement for an extension of time and collection is not enforced.

(c) Open accounts not subject to current settlement.

(d) Interest accrued on amounts included in this account when not subject to current settlements.

NOTE A: Accounts with affiliated companies which are subject to current settlements such as traffic and car service balances charges for material and supplies currently furnished charges for repairs to equipment etc shall be classed as current assets or current liabilities as may be appropriate.

NOTE B: No item shall be included in this account which is not known to be the property of an affiliated company.

NOTE C: The term "affiliated companies" includes:

1 Controlled companies including companies solely controlled by the accounting company and also companies jointly controlled by the accounting company and others under a joint arrangement (See Definition 4).

2 Controlling companies including both companies solely controlling the accounting company and companies which jointly control the accounting company under a joint arrangement.

3 Companies controlled by controlled companies.

4 Companies controlled by controlling companies.

By "control" (See Definition 8) is meant the ability to determine the action of a corporation. For the purposes of this account the following are to be considered forms of control:

(a) Right through title to securities issued or assumed to exercise the major part of the voting power in the controlled corporation.

(b) Right through agreement of some character or through some source other than title to securities to name the majority of the board of directors managers or trustees of the controlled corporation.

(c) Right to foreclose a first lien upon all or a major part in value of the tangible property of the controlled corporation.

(d) Right to secure control in consequence of advances made for construction of the operating property of the controlled corporation.

(e) Right to control only in a specific respect the action of the controlled corporation.

A leasehold interest in the property of a corporation is not to be classed as a form of control over the lessor corporation. Sole control is that which rests in one corporation.

Joint control is that which rests in two or more corporations and which is held under a joint arrangement.

#### 771 Pension and Welfare Reserves

(a) This account shall include the credit balances representing the liability of the carrier for amounts provided by charges to operating expenses, including amounts contributed by employees irrespective of whether carried in special funds or in general funds of the carrier for pensions accident and death benefits savings relief hospital or other provident purposes.

(b) Separate subaccounts shall be kept for each kind of reserve created and the appropriate reserve shall be charged when payments are made to retired employees or disbursements are made for the purposes for which the reserves were created.

#### 772 Insurance Reserves

This account shall include the accumulated balance of amounts for self-carried insurance risks representing premiums which were charged to operating expenses for fire fidelity boiler casualty burglar and other insurance. Losses on items protected by such insurance shall be charged to this account.

#### 773 Equalization Reserves

This account shall include ledger balances representing reserves created by charges to operating expenses for maintenance of road and equipment under a program designed to equalize such expenses by months within a calendar year. The debit or credit balances in this account shall be closed at the end of each calendar year to the accounts through which they were created.

#### 774 Casualty and Other Reserves

(a) This account shall include reserves created by charges to operating expenses to provide for estimated liability for injuries to persons and loss and damage claims; estimated liability for revenue overcharges such as those covered by reparation claims; and reserves not otherwise provided for in balance sheet accounts.

(b) Estimates of amounts payable within one year covering liability for claims for injuries to persons loss and damage, and similar items shall be transferred from this account to account 759 Accrued accounts payable.

NOTE: With respect to injuries to persons and loss and damage claims if the settlements when audited are charged to this account the balances for each year shall be kept separately until all items have been adjusted and cleared but if the settlements when audited are charged to the appropriate expense accounts the balance in this account shall be adjusted through the appropriate expense accounts so as to reflect the probable liability at the close of each year.

#### 781 Interest in Default

This account shall include the amount of matured and unpaid interest (for which no provision has been made for current settlement) on all indebtedness issued or assumed by the accounting company except interest which is added to the principal of the debt on which incurred. Where interest is in default, subsequent accruals shall be credited direct to this account.

#### 782 Other Liabilities

This account shall include assessments for public improvements; retained amounts due governmental agencies for construction work; percentages due contractors to be paid upon completion of contracts; deposits for construction of side tracks to be refunded on basis of an agreed portion of the earnings from the

NOTE D: See definitions 2 actually issued; 3 actually outstanding; 14 nominally issued; and 15 nominally outstanding

NOTE E: Shares of stock nominally issued or reacquired and held in the company's treasury except shares held by trustees in sinking or other funds, shall be included in the balance sheet statement of the balance in the subaccount shall be stated in the short column only

## 792 Stock Liability for Conversion

This account shall include the company's liability under agreements to exchange its capital stock for the outstanding securities of companies whose physical property has been acquired under such agreements but whose securities have not yet been surrendered for exchange

## 793 Discount on Capital Stock

This account shall include discount suffered in the issuance and sale of capital stock. Record supporting the entries to this account shall be kept to show the discount suffered if any on each subclass of capital stock

## 794 Premiums and Assessments on Capital Stock

(a) This account shall include the excess of the actual cash value (at the time of the sale of the stock) of the consideration received over the amounts recorded in account 791. Capital stock issued for par value stock plus accrued dividends if any also subsequent assessments against stockholders representing payments required in excess of par or other amounts recorded in account 791. Capital stock issued in accordance with the text of that account

(b) When capital stock is retired and canceled the amount in this account with respect to the shares of such stock retired and canceled shall be charged hereto

## 795 Paid in Surplus

(a) This account shall include such items as amount of consent dividends on the accounting company's capital stock; surplus arising from donations by stockholders of capital stock of the company or other contribution to capital; amounts representing reduction of the par or recorded value of the accounting company's capital stock including reductions arising in merger of a railroad and pooling of interest; (see instruction 2-14

tually outstanding being the shares not held by the company its agents or trustees, or subject to its control

(f) The amounts included herein shall be further divided so as to show the amount of each class of stock issued separated as between par value and no par value stock as follows:

(1) *Common stock* Stocks which have no preference over other issues of stock in distribution of dividends or of assets

(2) *Preferred stock* Stocks having preference over other issues of stock in distribution of dividends or of assets

(3) *Debtenture stock* Stocks issued under a contract to pay a specified return at specified intervals

(4) *Receipts outstanding for installments paid* Receipts for payments on account of subscriptions to capital stock

(g) When the subscriber has paid his subscription in full and is entitled to receive certificates representing the shares for which he has subscribed the par value of stocks having par value or the agreed purchase price or the price authorized by the Commission of stock without par value shall be included in the division appropriate for the class for which the certificates are issued

(h) Each of the above classes shall also be divided into subclasses according to differences in dividend or interest rights voting rights or conditions under which the securities may be retired

NOTE A: When a general levy or assessment is made against the holders of capital stock requiring the payment of any sum in addition to the consideration agreed upon at the time of sale the amount collected upon such levy or assessment shall be credited to account 794. Premiums and assessments on capital stock

NOTE B: When capital stock having par value is exchanged for capital stock without par value any sums resting in account 794, Premiums and assessments on capital stock with respect thereto shall be cleared to account 791. Capital stock issued and any amounts resting in the discount account with respect thereto shall be cleared to account 795. Paid in surplus; *Provided, however* That any excess over the amount of accumulated net gains applicable to the subclass exchanged included in paid in surplus shall be charged to account 616. Other debits to retained income

NOTE C: An appropriate record shall be maintained with respect to shares of capital stock showing the number of shares nominally issued nominally outstanding actually issued and actually outstanding

count is retired from service, the entire service value of property the cost of which has been charged to account 732 by the lessee shall be charged to this account. This account shall also be charged with the service value of property the ledger value of which is carried in account 731. Road and equipment property, by the lessor for which the lessee is liable to the lessor. See instruction 2-17

## 791 Capital Stock Issued

(a) This account shall include the total par value of par value stock and the total amount paid in or the amount approved by the Commission for stock without par value for all shares of capital stock or other form of proprietary interest in the accounting company which have been issued to bona fide purchasers and have not been reacquired and canceled, also shares of stock nominally issued and reacquired shares which have not been canceled

(b) This account also shall include amounts transferred from retained income for no par stock when approved by the Commission

(c) The amount of the consideration received from the sale of par value stock in excess of the amount credited to this account shall be credited to account 794, Premiums and assessments on capital stock

(d) When capital stock is retired or canceled this account shall be charged with the amount at which such stock is carried in this account. In the case of no par stock the amount to be charged hereto shall be the proportion applicable to the reacquired shares immediately prior to reacquisition of the total book liability included herein of actually outstanding shares of the particular class and series of stock of which the reacquired shares are a part

(e) The amounts included in this account shall be recorded so as to show:

(1) Par value of shares of par value stock and amount paid in or approved by the Commission of shares of no par stock (pledged or unpledged) held in the company's treasury by its agents or trustees or otherwise subject to its control including shares nominally but never actually issued and (2) Par value of shares of par value stock and amount paid in or approved by the Commission of shares of no par stock issued and ac-

traffic handled over the tracks and similar liabilities not payable within one year. This account shall also include other deferred liabilities and liabilities not otherwise provided for in general balance sheet accounts. Assessments for public improvements and amounts due governmental agencies and others for payments to be made within one year shall be included in account 763. Other current liabilities or other appropriate current liability account

## 783 Unamortized Premium on Long term Debt

This account shall include the total of the net credit balances in the discount expense and premium accounts for the several subclasses of funded debt

## 784 Other Deferred Credits

This account shall include the amount of credit balances in suspense accounts that cannot be disposed of until services are performed or additional information is received such as amounts received from sale of mileage tickets to be disposed of as mileage is honored; amounts received from sales of excess baggage script to be disposed of as coupons are honored; interchangeable mileage credit ticket redemption funds amounts collected from the sale of damaged unclaimed and over freight held pending final disposition; credit balances in clearing accounts such as Shop expenses Store expenses Operating gravel pits and 'Operating quarries'; unadjusted credit items not otherwise provided for; and similar items the proper disposition of which is uncertain

NOTE: Estimated liability for claims and other accounts payable currently are includible in account 789. Accrued accounts payable

## 785 Accrued Depreciation; Leased Property

(a) This account shall be credited with amounts concurrently charged to operating expenses or other accounts to cover the estimated accrued depreciation on leased road and equipment when settlements between the accounting company and the lessor are not made currently. It shall also be credited with depreciation accrued on property the cost of which is included in account 732. Improvements on leased property

(b) When leased property for which accruals have been included in this ac-

(d)) and amounts of forfeited subscriptions to the accounting company's capital stock. This account shall also include gains from the acquisition, retirement or resale of reacquired shares of the accounting company's capital stock; and forgiveness by stockholders as a contribution to capital of long-term debt owed to them.

(b) This account shall be charged with amounts included herein when capitalized by stock dividends or otherwise with the approval of the Commission, and losses from retirement or resale of reacquired shares up to an amount not in excess of credits included herein applicable to the reacquired shares; and may be charged with the amortization of discount on capital stock to the extent of credits herein.

**796 Other Capital Surplus**

This account shall include all capital surplus not provided for in account 795 Paid-in surplus.

**799 Form of General Balance Sheet Statement**

The classified form of general balance sheet statement is designed to show the financial condition of the accounting company at any specified date.

**LIABILITIES AND SHAREHOLDERS' EQUITY**

**Current liabilities:**

751 Loans and notes payable  
752 Traffic and car service balances—Credit  
753 Audited accounts and wages payable  
754 Miscellaneous accounts payable  
755 Interest matured unpaid  
756 Dividends matured unpaid  
757 Unmatured interest accrued  
758 Unmatured dividends declared  
759 Accrued accounts payable  
760 Federal income taxes accrued  
761 Other taxes accrued  
763 Other current liabilities  
Total current liabilities (exclusive of long term debt due within one year)  
Long term debt due within one year:  
764 Equipment obligations and other debt  
Long term debt:<sup>1</sup>  
765 Funded debt unmatured  
766 Equipment obligations  
767 Receivers and trustees securities  
768 Debt in default  
769 Amounts payable to affiliated companies  
Total long term debt  
Reserves:  
771 Pension and welfare reserves  
772 Insurance reserves  
773 Equalization reserves  
774 Casualty and other reserves  
Total reserves

**Shareholders' equity:**

Capital stock (par or stated value):  
791 Capital stock issued<sup>1</sup>  
792 Stock liability for conversion  
793 Discount on capital stock  
Total capital stock  
Capital surplus:  
794 Premiums and assessments on capital stock  
795 Paid in surplus  
796 Other capital surplus  
Total capital surplus  
Retained income:  
797 Retained income—Appropriated  
798 Retained income—Unappropriated  
Total retained income  
Total shareholders' equity  
Total liabilities and shareholders' equity

<sup>1</sup> To be divided as to Total issued<sup>1</sup> and Held by or for company

**ASSETS**

**Current assets:**

701 Cash  
702 Temporary cash investments  
703 Special deposits  
704 Loans and notes receivable  
705 Traffic and car service balances—Debit  
706 Net balance receivable from agents and conductors  
707 Miscellaneous accounts receivable  
708 Interest and dividends receivable  
709 Accrued accounts receivable  
710 Working fund advances  
711 Prepayments  
712 Material and supplies  
713 Other current assets  
Total current assets  
Special funds:  
715 Sinking funds  
716 Capital and other reserve funds  
717 Insurance and other funds  
Total special funds  
Investments:  
721 Investments in affiliated companies  
722 Other investments  
723 Reserve for adjustment of investment in securities—Or  
Total investments  
Properties:  
731 Road and equipment property  
732 Improvements on leased property  
Total transportation property  
735 Accrued depreciation—Road and equipment  
736 Amortization of defense projects—Road and equipment  
Total transportation property less recorded depreciation and amortization  
737 Miscellaneous physical property  
738 Accrued depreciation—Miscellaneous physical property  
Miscellaneous physical property less recorded depreciation  
Total properties less recorded depreciation and amortization  
Other assets and deferred charges:  
741 Other assets  
742 Unamortized discount on long term debt  
743 Other deferred charges  
Total other assets and deferred charges  
Total assets

(a) This account shall include the net balance (debit or credit) of the amounts included in accounts 601 to 623 inclusive. It shall not include transfers either to or from accounts 795, Paid-in surplus or 796 Other capital surplus unless so authorized upon application to the Commission.

(b) Any balance representing retained income not segregated at the date of the balance sheet shall be included in a subdivision of this account.

(c) The balance of accounts 601 to 623 inclusive, shall be closed into this account at the end of each calendar year.

## CLASSIFICATION OF MILEAGE ACCOUNTS

### Train Miles

#### 800 Rules and Definitions

- (a) A train is a unit of equipment or a combination of units of equipment (exclusive of light locomotives) in condition for movement over tracks by self-contained motor equipment. A locomotive is a self-propelled unit of equipment designed solely for moving other equipment. A light locomotive is a locomotive in condition for movement by its own motor equipment uncoupled to cars work equipment or dead locomotives. A motor car is a self-propelled unit of equipment designed to carry freight or passenger traffic and is not to be considered a locomotive.
- (b) A train-mile is the movement of a train a distance of one mile.

- (c) In computing train miles fractions representing less than one-half mile shall be disregarded and other fractions considered as one mile.
- (d) Transportation service train-miles shall be based on the actual distance run between terminals, and stations and shall be computed from the official time-tables or distance tables.

- (e) Work service train-miles shall be based on the actual distance run between terminals. When work trains are run between terminals and not ordered to work at some specified point or within specified working limits the actual miles run shall be allowed to them the same as to any other class of trains. When ordered to run to a certain point to work at that point or within specified working limits the actual miles made while

under running orders shall be allowed, and in addition an arbitrary mileage of six miles per hour for the time working at the point or within the working limits named. In computing such arbitrary mileage fractions representing less than one-half hour shall be disregarded and other fractions considered as one hour. Constructive miles on the basis of six miles per hour shall be allowed trains run for the purpose of removing snow when the actual miles of such trains are less than the constructive miles. No record is required of work-train miles on new roads, road extensions or portions of such roads or extensions, before the commencement of the regular operation of revenue service trains.

- (f) Each train and each section of a train run by a separate train crew shall be considered a separate train whether hauled by one or more locomotives either the whole distance or a part of the distance between the train terminals. There shall be nothing added to this distance to cover running of locomotives from enginehouses to terminals doubling hills running for water switching or other work at way stations or for the service of helper or pusher locomotives or of extra locomotives on double-head or triple-head trains.

- (g) When the carrier's trains, hauled by its locomotives and handled by its crews are detoured over foreign roads the miles shall be computed on the basis of the miles actually run and classified by it in its train-miles in accordance with the service performed.
- (h) Separate accounts of train-miles shall be kept for trains hauled by locomotives and for trains moved by motor cars.

### Train-Mile Accounts

#### TRANSPORTATION SERVICE<sup>1</sup>

#### 801 Freight train Miles

- (a) This account shall include miles run by all trains between terminals or stations for the transportation of revenue and company freight; also miles run by trains consisting of empty freight cars and by trains consisting of a locomotive and caboose running light in connection with such service.

- (b) Trains which contain passenger-train cars shall be classed as freight-trains whenever the number of freight-train cars is in excess of the number of passenger-train cars in them.

- (c) Freight-train miles shall be subdivided as follows:

- (1) Ordinary freight-train miles: Miles run by trains consisting of a locomotive with or without caboose with other equipment.

- (2) Light freight-train miles: Miles run by trains consisting of a locomotive and caboose running light in connection with freight-train service.

#### 802 Passenger train Miles

- (a) This account shall include miles run by revenue service trains to transport passengers baggage mail milk express or any combination of these; also miles

<sup>1</sup>These accounts shall include the miles of all revenue service trains including trains which incidentally carry employees or company freight. They shall also include the miles of trains which are operated between terminals or stations to transport company freight when the service is similar to that connected with the transportation of commercial freight and statistics of ton miles are kept.

The trains here referred to are those the locomotive and train expenses of operating which are includible in the locomotive and train expense accounts in the primary accounts under account 370 Transportation; rail line

run by trains consisting of deadhead passenger equipment.

(b) Trains which contain freight-train cars shall be classed as passenger-trains whenever the number of passenger-train cars is in excess of the number of freight-train cars in them.

NOTE: This account does not apply to trains run for the transportation of mail or milk upon the basis of authorized tariffs at rates based upon weight. The miles of such trains shall be classed as freight train miles.

### WORK SERVICE

#### 805 Work train Miles

This account shall include miles run by trains engaged in company service such as official inspection and pay trains; inspection trains for railway commissioners for which no revenue is received; trains running special with fire apparatus to save the carrier's property from destruction; trains run for transporting the carrier's employees to and from work when no transportation charge is made; wrecking trains; trains run for the purpose of ditching filling embankments and widening cuts; trains run for the purpose of removing snow; trains distributing ties, rails other track material ballast bridge material and other material and supplies for maintenance or for additions and betterments; trains run for picking up and concentrating such material; and trains run for distributing material and supplies for use in connection with operation.

NOTE A: The accounting for expenses of work train service shall be in accordance with paragraph (c) of instruction 2-6 Components of construction cost and instruction 3-1 Items to be charged and other requirements of the accounting regulations for operating expenses.

NOTE B: No record is required of the miles of construction trains on new roads or road extensions or on portions of such roads or extensions before the commencement of the regular operation of revenue service trains.

**Locomotive Miles****810 Rules and Definitions**

(a) A locomotive is a self-propelled unit of equipment designed solely for moving other equipment. A locomotive-mile is a movement of a locomotive a distance of one mile under its own power.

(b) In computing locomotive-miles fractions representing less than one-half mile shall be disregarded and other fractions considered as one mile.

(c) All locomotive-miles made in hauling transportation service trains shall be based upon the actual distance run between terminals or stations and shall be computed from the official time-tables or distance tables as prescribed for train-miles.

(d) Light-locomotive miles shall be based on the actual distance locomotives run except that no light-locomotive miles shall be allowed for terminal service where the distance in one direction is less than one-half mile.

(e) Miles of locomotives in helper service shall be computed on the basis of actual distance run in such service.

(f) Train switching locomotive-miles shall be computed at the rate of six per hour for the time actually engaged in such service. In computing such arbitrary mileage fractions representing less than one-half hour shall be disregarded and other fractions considered as one hour.

(g) Yard switching locomotive-miles shall be computed at the rate of six miles per hour for the time actually engaged in such service. In computing yard switching locomotive-miles fractions representing less than one-half hour shall be disregarded and other fractions considered as one hour.

(h) Work-train locomotive-miles shall be computed according to the rules prescribed for work-train miles. Miles of work locomotives employed in switching at shops for shop purposes, spotting cars in gravel pits working with pile drivers, etc., shall be computed upon the basis of six miles per hour for the actual time in the service. In computing the time engaged fractions representing less than one-half hour shall be disregarded and other fractions considered one hour.

(i) The miles of new or generally repaired locomotives running light in breaking-in service shall not be included in the locomotive-mile accounts.

(j) No record is required of the miles of locomotives in construction service on new roads or road extensions, or on portions of such roads or extensions before the commencement of the regular operation of revenue service trains.

(k) A separate record shall be kept for miles of steam locomotives and for miles of other locomotives.

(l) Miles of motor cars shall not be classed as locomotive-miles.

**Locomotive-Mile Accounts****TRANSPORTATION SERVICE; LINE<sup>1</sup>****811 Freight Locomotive miles**

(a) This account shall include miles run by locomotives in freight-train service the train-miles of which are includible in account 801. Freight-train miles.

(b) Principal freight locomotive-miles: Miles run by locomotives principal to the train, between terminals or stations with freight trains; also miles run by locomotives between terminals or stations with cabooses going to or returning from such service; and miles run in hauling the second cut of freight trains doubled over grades.

(c) Helper freight locomotive-miles: Miles run by locomotives as helpers over the division or that portion covered by the run or on important grades including double-headers, triple-headers and pushers regardless of whether on the head end, in the middle or on the rear of the train.

(d) Light freight locomotive-miles: Miles run by locomotives light between terminals or stations in connection with freight-train service on account of unbalanced traffic; miles run light for hauling second cuts of trains doubled; miles run light between freight trains and next fuel station or water tank for fuel or water; miles run light to pick up or assist freight trains between terminals; miles run light by grade helpers in returning from assisting freight trains as pushers or double-headers; and miles run light by locomotives coming from or going to enginehouses or turntables from freight-train service.

NOTE: No miles shall be allowed for light movements at terminals if the distance between enginehouses or turntables and freight train terminals is less than one half mile.

**812 Passenger Locomotive miles**

(a) This account shall include miles run by locomotives in passenger-train service the train-miles of which are includible in account 802. Passenger-train miles.

<sup>1</sup> This account shall include the miles run by locomotives moving transportation service trains and also miles run light in connection with such service.

(b) Principal passenger locomotive-miles: Miles run by locomotives principal to the train between terminals or stations with passenger trains.

(c) Helper passenger locomotive-miles: Miles run by locomotives as helpers over the division or that portion covered by the run or on important grades.

(d) Light passenger locomotive-miles: Miles run by locomotives light between terminals or stations on account of unbalanced traffic in connection with passenger-train service; miles run light between passenger trains and next fueling station or water tank for fuel or water; miles run light to pick up or assist a passenger train between terminals; miles run light by grade helpers in returning from assisting passenger trains as pushers or double-headers; and miles run light by locomotives coming from or going to enginehouses or turntables from passenger-train service.

NOTE: No miles shall be allowed for light movements at terminals if the distance between enginehouses or turntables and passenger train terminals is less than one half mile.

**TRANSPORTATION SERVICE; SWITCHING****815 Train Switching Locomotive miles**

This account shall include miles allowed train locomotives for performing switching service at terminals and way stations. Include such items as switching at industry tracks, team tracks, freight house tracks and interchange tracks; picking up or leaving cars en route; switching out bad order cars weighing cars making up or breaking up train at points where no yard service is maintained. No time should be included representing delays that may occur after yard switching has been completed such as waiting for a train order held up account of meeting with a train in opposite direction waiting for waybills or other time lost due to conditions other than actual train switching.

**816 Yard Switching Locomotive miles**

This account shall include miles allowed yard locomotives while switching in yards where regular switching service is maintained; also miles of switching locomotives running light between terminals and yards where regular switching service is maintained in connection with switching service in such yards. This account shall be subdivided as follows:

gage passenger and mail and passenger and express cars in which passengers are carried at regular tariff fares without extra charge for space occupied

(3) *Sleeping and parlor cars* Miles run by sleeping parlor and other cars for which an extra fare is charged for space occupied

(4) *Dining, club lounge and observation cars* Miles run by dining, cafe and other cars devoted exclusively to the serving of meals and other refreshments and by club lounge and observation cars without charge in excess of sleeping or parlor car fares

(5) *Business cars* Miles run by all railway business cars operated for the transportation of the carrier's officers and employees

(6) *Other passenger-train cars* Miles run by baggage express mail milk and postal cars and by cars in which such services are combined (This class includes no cars intended for the transportation of revenue passengers)

(b) This account shall be so kept as to show miles run in freight trains and in passenger trains separately

#### WORK SERVICE

#### 825 Work Service Car miles

This account shall include miles run by cars in work trains except by equipment which is designed exclusively for work service such as snow plows flangers derricks pile drivers wrecking cranes tool cars and camp outfits (For description of work train see account 805 Work-train miles)

#### Car-Mile Accounts

##### TRANSPORTATION SERVICE

#### 821 Freight train Car miles

(a) This account shall include the miles run by freight-train cars (including caboose cars) in transportation service Such car-miles shall be subdivided as follows:

Loaded (run by loaded freight cars)

Empty (run by empty freight cars)

Caboose (run by caboose cars)

(b) This account shall be so kept as to show miles run in freight trains and in passenger trains separately

(c) Miles run by flat cars loaded with empty railroad-owned or controlled highway trailers shall be classed as empty car-miles Miles run by flat cars loaded with empty highway trailers, other than railroad-owned or controlled and moving on revenue billing shall be classed as "loaded car-miles"

#### 822 Passenger train Car miles

(a) This account shall include the actual miles run by passenger-train cars in transportation service It shall include miles of loaded cars and also of empty cars deadheaded in connection with the service and shall be subdivided as follows:

(1) *Coaches* Miles run by coaches and chair cars in which passengers are carried at regular tariff fares without extra charge for space occupied

(2) *Combination coach cars* Miles run by combination passenger and bag-

NOTE A: Miles run by locomotives while engaged incidentally (in connection with regular yard switching service) in switching company material in company shop or material yards or in switching equipment for repairs between yards and shops shall be included in account 816 Yard switching locomotive miles

NOTE B: Miles run by locomotives engaged in shop and material yard switching service if operated by shop employees shall not be included in this account

#### Car Miles

#### 820 Rules and Definitions

(a) A car-mile is a movement of a unit of car equipment a distance of one mile

(b) In computing car-miles, fractions representing less than one-half mile shall be disregarded and other fractions considered as one mile

(c) Separate accounts of car-miles shall be kept for the cars in trains hauled by locomotives and for the cars in trains moved by motor cars The record of car-miles in trains moved by motor cars shall show separately the miles for motor cars and for cars not thus equipped

(a) *Yard switching locomotive-miles; freight:* Miles allowed yard locomotives in yards where regular switching service is maintained and in terminal switching and transfer service while engaged in switching cars in connection with the transportation of revenue freight; also miles allowed locomotives in such service while engaged incidentally in switching cars in connection with the transportation of company freight

(b) *Yard switching locomotive-miles; passenger:* Miles allowed yard locomotives while switching cars in connection with passenger-train service

NOTE: Where yard switching is performed for both freight and passenger service by the same locomotive or by locomotives assigned to one yard a fair approximation of the mileage may be assigned to each service daily or monthly

#### WORK SERVICE

#### 817 Work Service Locomotive miles

This account shall include the actual miles run by locomotives in work-train service as defined in account 805 Work-train miles; also miles of locomotives engaged solely in shop or material yard switching service

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